

# History and Civics of Nebraska.

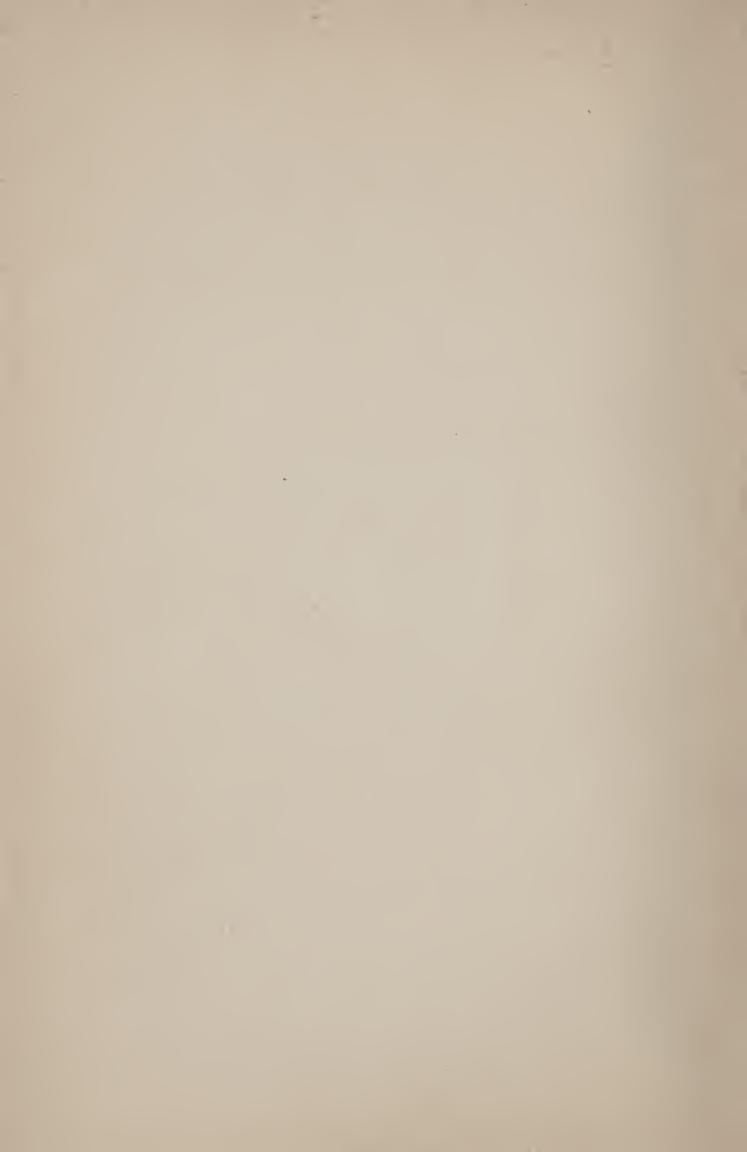
M. B. C. TRUE.

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UNITED STATES OF AMERICA.





## THE HISTORY

AND

### CIVIL GOVERNMENT

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# The State of Nebraska.

Designed for the Use of the Schools of the State.

REVISED EDITION

By M. B. C. TRUE,

Author of "Our Republic."

FREMONT, NEB: DANIFL V. STEPHENS. 1892.

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By M. B. C. True.

#### PREFACE TO FIRST EDITION.

There is little need for any remarks concerning the demand for a text-book upon the civil government of the state, in addition to the words of the state superintendent in the introduction. The basis upon which a study of that branch is demanded is forcibly and sententiously stated there.

I have prefaced the volume with a short historical sketch of the state, which, I trust, will be found to be sufficiently complete for this place. Much has been written about the historical events of the territory and state, but none of it is in such form as to be accessible to the general reader. A knowledge of these events is important, as a good in itself, and as a means of properly apprehending that system of government which grew out of, and is the fruit of, those events. Hence, no scholar, certainly no teacher, can afford to be ignorant of the prominent and governing facts in the history of his own state. For these reasons, I hope that the historic sketch will be found to be indispensable in these pages.

The bill of rights lays down some general principles, stating the inherent rights and privileges of the citizen. These rights constitute the foundation of a free government. As much of the language used in the bill of rights is in the technical terms of the law books, I have appended explanatory remarks in the hope of making the meaning plainer.

The author believes that the plan of the work will commend itself to the trained judgment of the experienced teacher. It is a treatment of the details of local governing agencies in advance of the more general ones; the study of the concrete before taking up the abstract, so far as youthful apprehension and experience are concerned.

Just what matters, and how much of them, are needed in this volume after the skeleton of the government is given in Divisions I. and II., must be a matter of taste and judgment, concerning which there is probably no unanimity among teachers. That too much has not been included, will, I trust, be demonstrated in the school-room; that more might have been advantageously included I am ready to concede.

As the book is intended for a place in the district schools, as well as in the graded schools, it has been considered important that the volume should not be too bulky, nor too expensive, nor contain more than pupils can go over easily in one term.

The questions are not intended to be exhaustive. The intelligent teacher can easily add such others as may be needed to secure a full understanding of the text.

No writer who does honest work can fail to see some of the imperfections of the results. That the earnest, conscientious teacher will find some important facts omitted herefrom, can hardly be doubted, but the author believes that there is enough in these pages to render the volume of some value in the educational system of the state.

Crete, March 20, 1885.

#### PREFACE TO REVISED EDITION.

The three regular sessions of the legislature of the state, which have been held since the first edition of this textbook was issued, made many important changes in the laws and organization of the state government. These changes have caused a call for a revision of that part of the book treating the civil government of the state. In the revision, the matter that has become useless has been cut out, and the new laws and new parts of the state machinery have been put into their appropriate places. Thus, this text-book is substantially a new work, showing the state government as it exists at this date. More than three fourths of the text have been entirely re-written in the hope that clearness of statement and of style may be added. Many pages not entirely re-written have been amended in many particulars.

Circumstances have seemed to compel another important change in the text. The first edition was written with a partial intent to furnish to the voters who had limited opportunities for studying the frame-work of the state government, some means for such study. To that end, there were placed in the latter part of the volume many pages relating to laws, to the rights of citizens, and to many details of government not necessary to the pupils, but extremely valuable to the parents of the pupils. Most of Division IV., entitled "Miscellaneous Laws," was of the character indicated. The new law of the state under which the districts own the text-books, keeps the text-books out of the hands of the parents, and thus renders Division IV., practically useless. In consequence thereof.

nearly all of Division IV. has been omitted, a few pages only having been transferred to Division III. in this edition.

In deference to the advice of many friends more closely cognizant of the needs of the schools than the author, he has retained the questions as in the first edition. In the questions, he has made frequent attempts to call out some expression of thought and judgment from the pupil. It is hoped that the teacher will supplement the printed questions by others designed to test the pupil's understanding of the lesson. "Why" is a very valuable question, and is seldom out of place.

The author trusts that he may be pardoned for suggesting to teachers that frequent reference to the constitution of the state will add to the value of the ordinary lesson. The pupils should be encouraged, or, better, required to find a constitutional warrant for every portion of the text studied. The constitution of a state or nation is not so very dull a piece of composition, if properly studied, as it is usually considered to be. A great deal of original work can be done by pupils, especially in the earlier chapters. This kind of work will add interest to the study of the subject.

The revision and enlargement of the historic sketch of the state have been done under such a pressure of time and of other imperative duties that the author asks the generous indulgence of the teacher who uses the sketch as a basis for information or of instruction. No attempt has been made to present an exhaustive history of the state. Some effort has been made looking to finding a mean between too great prolixity and too much condensation. The author has considered that the earlier period of the history of the state, that period a little indistinct by data not quite definite, a little hazy by

lapse of time and absence of records, would be most desired, most valuable to pupils. He has therefore, tried to set forth a larger proportion of accessible facts of that period than of later periods.

All students of history finds authorities often so conflicting as to render it difficult, if not impossible, to determine the facts. In this sketch the author has tried to find the most credible data, and has followed such authorities as seemed to him the most reliable. In a sketch of this character, for use in schools, it has not been deemed best to encumber the pages with notes of authorities.

The anthor has reason to hope that educators of the state will find the present edition of Nebraska Civics as worthy as they found the first edition.

Tecumseli, Neb., July 1, 1892.



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#### BOUNDARIES.

Nebraska is bounded on the east by the states Iowa and Missouri; on the south by the states Kansas and Colorado; on the west by the states Colorado and Wyoming; and on the north by the state South Dakota.

The more specific lines bounding the state are as follows: Beginning on the 40th degree of north latitude in the center of the channel of the Missouri river, thence along the center of that channel till it reaches the point of its intersection with the 43d degree of latitude; thence due west to the 27th degree of longitude; thence due south to the 41st degree of latitude; thence due east to the 25th degree of longitude; thence due south to the 40th degree of latitude; thence due east to the place of beginning in the center of the channel of the Missouri river.

#### DIVISION I.

#### GEOGRAPHICAL DIVISIONS.

The state is divided into smaller bodies for purposes of government. Beginning with the smallest subdivision, they are as follows:

- 1. Villages.
- 2. Cities.
- 3. School Districts.
- 4. Precincts.
- 5. Townships.
- 6. Counties.
- 7. Judicial Districts.
- 8. The state is also divided into six congressional districts, for purpose of representation in the lower house of Congress; but this division has no effect upon the state government.

Each of the above named seven subdivisions has special officers whose duties and authority fall within that subdivision. We will take up the subdivisions of the state, as indicated above, in the order named.

#### DIAGRAM OF THE GEOGRAPHICAL DIVISIONS.

The State.	Counties.	Villages. Cities. School Districts. Precincts. Townships.
	Judicial Districts. Congressional Districts.	

#### CHAPTER I.—MUNICIPAL CORPORATIONS.

The American people have inherited a desire for self-Their ancestors of the Anglo-Saxon race government. have exercised self-government for so many centuries, that we have come to regard this as a right which cannot be taken away from us without our consent. The Declaration of Independence asserts this right for the collect-. ive people of a nation, and the assertions of that Declaration are being more and more accepted by the people of other nations. But the early Angles and Saxons, and their cousins of the great Teutonic race, exercised this right of self-government in their smaller tribes and communities. Each community and each tribe chose its own rulers in peace and its own leaders in war, and, in a crude way, regulated the actions and the rights and privileges of individuals. Of course, there was no Teutonic nation, nor Saxon nation, as we understand the word "nation," today, but the various tribes and communities acted together for the common interests of all. On this account, there is not the same reason for local selfgovernment now that there was then. But the habits and customs and the traditions of a people are strong, and we cling closely to the usages and habits of our Anglo-Saxon ancestors. Besides, people in the United States are growing in their fitness for self-government. Intelligence and moral forces are increasing among us; these are at the basis of fitness for self-government.

In all governments, there is need for some rules governing conduct that ought to be the same in all parts of the government. There are other rules which are needed in some places and under some conditions, which are not needed in other places and under other conditions. We can easily see that there are some rules that ought

to apply to all schools. We can also see that in a school having a thousand pupils and twenty-five teachers, there must be some rules which are not needed in schools having but one teacher and about thirty pupils. In the same view, we can see that rules are needed for one hundred thousand people living together in a small space, different from those needed in farming communities.

Inasmuch as the forms of government, and methods of doing business, with which we are familiar, seem better to us than do those with which we are not familiar, it is thought best to permit each community needing some of these special rules to make them for themselves. But, as all the people of the state are interested in the welfare of those of each community, the state always makes some restrictions upon the power of these several communities, so that the rights of all may be preserved. In this state the same restrictions are imposed upon one community as upon another of the same size.

Again, the people of each community are better acquainted with their own citizens than the people of other portions of the state can possibly be. The people of each community are, thus, better able to make proper selection of officers for carrying out the rules specially needed by that community. As people are governed through officers appointed for that purpose, the right of self-government includes the right to elect the officers of the government.

These communities, which I have been describing, and which need rules which others do not need, are often called corporations. In earlier times, when war seemed to be the principal business of a large class of the people, each community was, in a measure, at war with every other

community. And so, these communities were accustomed to surround themselves by walls for defense. On this account, they were called "municipal corporations." Before the pupils have completed their Latin course, they will have learned that this word, municipal, is formed by the union of two Latin words, munio and capio; the rather free translation being, received into walls, protected by walls. Such cities claimed, and were strong enough to obtain, special privileges, among which were many privileges of self-government. Some of them had so many privileges that they were called free cities. In America, while these communities exercise the right of self-government in respect to matters in which the people of other communities can have but little interest, the individuals of those communities yet are subject to the same general laws that control other citizens of the state.

In this state, these corporations are divided into four classes, and are graded according to the population of each; these are villages, cities of the second class, cities of the first class, and metropolitan cities.

A Village. The smallest of these corporations, can be formed whenever there are two hundred people living near together who so desire. The village has fixed boundary lines and must include all the people and all the land inside of those boundary lines.

The Officers of a village are: five trustees, called "board of trustees," a clerk, a treasurer, an attorney, an overseer of the streets, and a marshal. All these officers must be voters within the village, and the members of the board of trustees must also be tax-payers of the village and must have resided within the village three months before their election. The voters of the village elect the members

of the board, yearly, and the board appoints the other officers, yearly.

The Board of Trustees meet at such regular times as they may set, and one of its members is elected its chairman. This board has power to make all the rules needed within the village.

The rules which the trustees of villages and the councils of cities make for the government of the people, are called "by-laws," and "ordinances." The board of trustees of villages have power to pass by-laws and ordinances to prevent and remove nuisances; to prevent, restrain, and suppress gambling houses and other disorderly houses; to restrain and prohibit gambling; to license and regulate theatrical and other amusements; to establish night watches; to provide pest houses; to prevent the introduction and spread of contagious diseases; to establish and regulate markets; to erect and repair bridges; to erect, repair and regulate wharves, and the rate of wharfage; to regulate the landing of steamboats, rafts, and other watercraft; to provide for the inspection of lumber, building materials, and provisions; to require and regulate the planting and protection of shade trees in the streets, and the erection of stairways, railways, doorways, awnings, hitching posts and rails, lamp posts, awning posts and all other structures and excavations near the sidewalks and streets; to levy taxes for revenue; to provide for grading, paving and repairing streets, avenues, alleys and the construction and repair of bridges, culverts, sewers and sidewalks; to levy a license tax upon occupations; to tax dogs; to authorize gas works and water works; to establish and change the channels of water courses; to provide apparatus for extinguishing fires; to limit the erection of wooden buildings; to regulate levees, depots, depot grounds, the

passage of railways through the streets, and railway crossings; to establish and regulate standard weights and measures; to provide for the inspection and weighing of hay, grain, coal and fuel.

The clerk of the village keeps a record of the actions of the board of trustees, draws and signs orders for the payment of the money of the village, and performs such other duties as the board may require. The treasurer receives the money of the village and pays it out on the order of the board of trustees. The attorney is the lawyer for the village. The overseer of streets has charge of grading and repairing streets and sidewalks. The marshal acts as a sheriff for preserving order, and for enforcing the rules of the village.

Cities of the Second Class. Whenever a village has fifteen hundred inhabitants or more, and has less than ten thousand, it may be organized into a city of the second class. The officers of cities of this class are: a mayor, a clerk, a treasurer, a city engineer, a police judge, an overseer of streets, an attorney, and a city council.

The mayor presides at all meetings of the city council, has a superintending control of the officers and affairs of the city, may veto any ordinance passed by the council, and is required to take care that the ordinances of the city are enforced. The clerk, treasurer, and attorney perform about the same duties as do officers of the same names in villages. The city engineer makes all surveys, estimates and calculations concerning the cost of improving the streets, building and repairing bridges and public buildings and for establishing grades, and performs such other like work as the city may require. The overseer of streets has charge of opening, grading, and repairing streets, sidewalks, culverts, bridges, etc., in the city. The voters of

the city elect the mayor, clerk, treasurer, engineer, yearly, and the police judge every two years. The mayor and council appoint the attorney and overseer of streets, yearly.

The council is made up of two persons elected from each ward into which the city may be divided; each person is elected for a term of two years, and the two persons from each ward are elected in separate years. There can not be less than two wards, nor more than six. The powers of the council are somewhat broader than are those of trustees of villages.

The city council is authorized to control billiard tables, liquor shops, nuisances, domestic cattle running at large, the use of fire-arms, gun powder, weights and measures within the city; racing, railroad crossings, depots, levees, water courses, streets, alleys, culverts, bridges, fires and chimneys; the council may establish and support hospitals, night watch, market houses, sidewalks, water works, gas works, cemeteries, fire limits, fire engines and other apparatus for extinguishing fires; may open, widen, abandon and repair streets and alleys; may light the streets and license saloons, and provide for the inspection and weight of grain, coal, &c. In cities that own and maintain water works, the mayor and council annually appoint a water commissioner.

Any ordinance which the mayor may veto, may be passed over the veto by a vote of two thirds of the members elected to the council.

Cities of this class are divided into two grades; those having a population less than five thousand, and those having a population more than five thousand. There is some difference in the powers of the two grades of cities,

the most populous cities having the most power, but the difference is not very much.

Cities of the First Class. Cities having a population over ten thousand and less than eighty thousand, are cities of the first class, and are divided into not less than six wards. In these cities the voters bi-ennially elect a mayor, a clerk, a water commissioner, a city attorney, a city engineer and a police judge, and a council formed by two members from each ward. The mayor and council appoint a street commissioner, a chief of the fire department, a board of public works with three members, a gas inspector, an inspector of meats and live stock, and a sealer of weights and measures. The mayor, and two other voters of the city elected bi-ennially, constitute the "excise and police board," which appoints the chief of police and other police officers. The duties of these officers are similar to the duties of officers of the same titles in cities of the second class.

The powers of the city council are more broad and extensive than those of councils in cities of the second class, and they embrace more subjects. As sewerage, water works, gas works, street railways, public buildings, hospitals, police forces will necessarily be more expensive in large cities than in smaller ones, with enlarged opportunities for frauds, and increased liabilities to mismanagement, the authority granted to cities of the first class is correspondingly more minute, so that the public interests may be more carefully guarded.

Cities of this class are divided into two grades: those whose inhabitants do not exceed twenty-five thousand, and those whose inhabitants are between twenty-five thousand and eighty thousand. The powers given to each grade of cities of the first class differ somewhat in extent.

Metropolitan Cities. Cities having a population of eighty thousand or more are called metropolitan cities. In every other year the voters elect a mayor, a city clerk, a police judge, a treasurer, a comptroller. The council is constituted by one councilman from each ward and as many councilmen-at-large as the number of wards, and the councilmen are elected for two years. The mayor and council appoint a board of public works of three members, a city engineer, a street commissioner, an inspector of buildings, a city attorney, an assistant city attorney, a city prosecutor, a boiler inspector and a commissioner of The mayor, and four electors of the city appointed by the governor of the state, constitute the "board of police and fire commissioners," and this board appoints the officers of the police force and of the fire department; a "board of health" is composed of the mayor, commissioner of health, the sanitary commissioners of the district in which the city is located, the chief of police and two members of the city council. The general duties of the officers of cities of the metropolitan class are of the same character as the duties of similar officers in smaller cities—but their authority and powers are much broader and larger than are those in smaller cities.

#### QUESTIONS.

What are the purposes for which municipal corporations are organized? Give the historic reasons for their organization. What is a municipal corporation? When may a village be formed? Name the officers of a village and their duties. What are the powers of a village board? Name the various grades of cities and their distinctions. Name the officers common to all the cities and their duties. Why is the highest grade city called a metropolitan city? What is one great fault in city government?

#### CHAPTER II.—SCHOOL DISTRICTS.

Each county is divided into as many school districts as the people may demand and the county superintendent may approve. The superintendent is obliged to form new districts and to change old ones on the petition of two thirds of the voters of the districts affected. The law forbids the formation of a district extending a distance of more than six miles in one direction upon section lines, or one that does not contain four sections of land, unless it contains property assessed at not less than twelve thousand dollars; but, if the district so lies along streams of water courses as to make it impracticable for it to contain four sections of land, it may be formed without regard to the amount of land or valuation of property. The name or title by which a school district acts is: "School District No.——, of ———— County, State of Nebraska."

Grades. There are three grades, or kinds, of school districts in this state; the ordinary district of the country, the high school district, and the city school district. The affairs of the ordinary school district are managed by the annual district meeting and by the school board. This board consists of three members; a moderator, a treasurer, and a director. The moderator presides at all meetings of the district and of the board, and signs the orders for the payment of the district money. The treasurer receives the money of the district, and pays it out, as directed by law, on the order of the board signed by the moderator and the director. The director is the clerk of the district and of the board; he draws and signs the orders for the payment of the district money; takes a census of school children of the district once a year; has the care and control of the school property, and attends generally to such other business as the district meeting or the board may

direct. At the annual school meeting of the district, the voters may make such orders concerning the affairs and property of the district as they may deem best and the board is obliged to obey such orders.

High School District. Whenever any district contains more than one hundred and fifty children of school age, that district may organize into a high school district, and will be governed by six trustees, called a "board of trustees." This board classifies and grades the scholars of the district; and, upon a vote of the district, may establish a high school, prescribe courses of study, and make rules for the government of the schools. Otherwise this district is governed in much the same manner and form as the ordinary school district.

City District. Each incorporated city is a school district by itself. In many cities of the second class the district includes territory outside of the city limits. In the city districts, the governing board is called the "board of education," and the district is named, "The School District of —, in the county of —, in the State of Nebraska." The board elects its own president and secretary. The people of the district have no direct voice in its government beyond the election of the members of the board of education, and a vote upon the issnance of bonds, and upon such other matters as the board may submit to a vote. These districts have graded schools in all departments. The schools are under the immediate care of a superintendent, elected by the board; and the different departments have such teachers as are needed. In metropolitan cities, the board of education consists of fifteen members; in cities of the first class, of nine; and in other cities, of six members. The city treasurer is the treasurer of the school district.

#### QUESTIONS.

What constitutes the smallest school district? What may a school district do? State the several grades of school districts and their differences. How is the ordinary school district governed—the high school district—the city school district? What is the advantage of the school district meeting?

#### CHAPTER III.—PRECINCTS AND TOWNSHIPS.

A Precinct is the name given to a tract of country, a sub-division of a county, all of whose voters can conveniently vote at one voting place. Excepting along the large rivers, the precinct is usually six miles square, equal to a congressional township. The county board determines the name and size of the precinct. It is a simple territorial sub-division, and does not possess any attribute of a corporation. The officers of a precinct are: three judges of election, two clerks of election, one assessor, two justices of the peace and two constables. For the duties of these officers, see chapters on Elections, Judicial Department, Revenue.

A Township. A law of the state allows counties to adopt township organization. For this purpose a petition, signed by not less than fifty voters of the county, must be presented to the county board, and the board is thereupon required to call an election of the voters of the county for the adoption or rejection of the system. It requires a majority of all who vote at that election to adopt it. Township organization may be abolished by the same method, when the people desire to return to the precinct system. The petition for the return must be signed by one third of the voters of the county as shown by the returns of the last election.

In counties having township organization, the board of

county supervisors divides the county into townships of convenient size, which is usually the same as that of precincts. No village or city, incorporated and with a population over one thousand, can be included in a township.

The officers of a township are: three judges of election, two clerks of election, one assessor, two justices of the peace, two constables, one supervisor, one clerk, one treasurer, and overseers of highways. The clerk keeps the town records, and does the clerical work for the town and for the town board. The supervisor represents the township in the county board. The supervisor, clerk, and the two justices of the peace constitute the "town board." This board examines the accounts of the supervisor, overseers of highways, and of the other township officers, and audits and adjusts all claims against the township for services, labor, or supplies furnished under contract. The duties of the other officers are nearly the same as those of precinct officers.

Town Meetings. The voters of the township hold a town meeting on the first Tuesday in April of each year. At that meeting the assembled voters take such action as they may wish in regard to the property of the township, determine the amount of taxes to be levied for township purposes; may give orders in regard to constructing wells, planting trees along the highway, preventing nuisances, repairing roads and bridges, and for supporting the poor in counties in which there is neither poorhouse nor poor-farm, and make rules in regard to cattle and other domestic animals running at large, and may provide pounds for such animals as may be found running at large illegally.

#### QUESTIONS.

State the difference between a precinct and a township. What officers has a precinct? A township? How may counties adopt township organization? How abolish it? What advantage has a township organization over the precinct organization? Where did township organization originate?

#### CHAPTER IV.—COUNTIES.

Officers. The officers of a county are: clerk, treasurer, judge, clerk of the district court, superintendent of public instruction, sheriff, register of deeds, attorney, coroner, and a county board. In counties under township organization, this board is composed of a supervisor from each township, and a supervisor from each village or city containing one thousand inhabitants, and one supervisor for each additional two thousand inhabitants in such village or city. The supervisors are elected every year, and the board is called the "board of county supervisors." In counties not under township organization, this board is called the "board of county commissioners." In counties having a population less than seventy-five thousand, three members constitute the board; each is elected from a separate dis-

trict for three years. In counties having a population more than seventy-five thousand, five members constitute the board; each is elected from a separate district for a term of three years. The clerk of the district court, and the register of deeds are each elected for a term of four years; each of the other county officers is elected for a term of two years.

The board of county commissioners, and the board of county supervisors have duties and powers nearly identical. This is the governing body of the county, and looks after the interests of the county, very much as the city council does after the interests of the city.

The County Board has the care and control of all the county property, not pertaining to the duties of any special officer, manages the county funds, opens or vacates roads, settles with county officers who handle any county funds, vacates plats of village and city, and changes the name of any village or city, provides books, stationery and other appliances for the use of the county officers, builds court houses, jails, poor houses, bridges and other necessary county buildings. In counties not under township organization, the county board settles the accounts of the overseer of highways.

THE COUNTY CLERK is the clerk of the county board. He keeps all official bonds of county officers, except his own; keeps a record of all claims against the county, and performs such other services as may be required by the county board. In counties having a population less than eighteen thousand and three, he is the register of deeds.

TREASURER. In counties under township organization the treasurer receives and keeps the public money collected by the township collectors, and pays it out

on orders signed by the county clerk and chairman of the county board. In counties not under township organization, he collects the taxes directly from the tax-payers, and pays out the public money on orders as above described. The Sheriff is the executive officer of the district

court and of the county court.

The Judge of the county court has jurisdiction between that of a justice of the peace and that of the district court.

REGISTER. In counties having a population exceeding eighteen thousand and three, a register of deeds is elected who has the care and custody of the books, maps, records and papers kept in his office, and he files or records all deeds, mortgages, and other written instruments which the law requires to be recorded or filed. In counties having a population less than eighteen thousand and three, the county clerk is the register of deeds.

The Clerk of the District Court keeps the records of the court and has charge of all the books and papers connected with the business before the court.

THE ATTORNEY is the law adviser of the county and of its officers; he appears for the county and state in all suits in his county in which either has any interest, and he prosecutes all criminal actions in the county, either before justices of the peace, in the county court, or in the district court.

THE CORONER holds inquests upon the bodies of such persons as are supposed, or suspected, to have died by unlawful means. For this purpose, he issues an order to the sheriff to call six free-holders of the county as a jury. He and the jury then hear the testimony concerning the cause of the death, and the jury makes such a report as the testimony may justify. In the absence of the sheriff from the county, or when there is no sheriff, or when the sheriff

is a party in the action or is otherwise interested in it, the coroner acts in the place of the sheriff. The sheriff acts in place of the coroner in the absence of that officer.

THE SURVEYOR makes surveys of lands in the county whenever he is required to do so, and establishes boundaries and corners. He must make a record of all his official acts. He keeps in his office a copy of the field-notes of the original survey of all lands in the county.

The Superintendent of Public Instruction has a general supervision of the schools of the county. He visits them as often as is practicable, and he helps the teachers in their duties. He examines the qualifications to teach of those who desire him to do so, and he gives to them certificates graded according to their qualifications.

#### QUESTIONS.

What is said about the size of counties? What officers have counties? What are their terms of office? What are the powers and duties of the county board? Name the general duties of the several county officers; the clerk, the treasurer, the sheriff, the coroner, the register of deeds, the attorney, the surveyor, the superintendent of public instruction, the judge, the clerk of the district court. Why should the state be divided into counties?

#### CHAPTER V.—OTHER DISTRICTS.

#### JUDICIAL DISTRICTS.

For the better administration of justice, the state is divided into fifteen judicial districts. In each district the voters elect a judge who serves a term of four years. In the first, fifth, sixth, eleventh, and fifteenth districts, there are two judges in each; in the third district, three; in the fourth, seven; all the other districts have one judge

each. The counties constituting the several judicial districts, are as follows:

First District. Gage, Jefferson, Johnson, Nemaha, Pawnee and Richardson.

SECOND DISTRICT. Cass and Otoe.

THERD DISTRICT. Lancaster.

FOURTH DISTRICT. Burt, Douglas, Sarpy and Washington.

FIFTH DISTRICT. Butler, Hamilton, Polk, Saunders, Seward and York.

Sixth District. Colfax, Dodge. Merrick, Nance and Platte.

SEVENTII DISTRICT. Clay, Fillmore, Nuckolls, Saline and Thayer.

Eighth District. Cedar, Cuming, Dakota, Dixon, Stanton and Thurston.

NINTH DISTRICT. Antelope, Knox. Madison, Pierce and Wayne.

TENTH DISTRICT. Adams, Franklin, Harlan, Kearney, Phelps and Webster.

ELEVENTH DISTRICT. Blaine, Boone, Garfield, Grant, Greeley, Hall, Hooker, Howard, Loup, Thomas, Valley and Wheeler.

TWELFTH DISTRICT. Buffalo, Custer, Dawson and Sherman.

THIRTEENTH DISTRICT. Arthur, Banner, Cheyenne, Deuel, Keith, Kimball, Lincoln, Logan, McPherson, Perkins and Scotts Bluff.

FOURTEENTH DISTRICT. Chase, Dundy, Frontier, Furnas, Gosper, Hayes, Hitchcock and Red Willow.

FIFTEENTH DISTRICT. Box Butte, Brown, Cherry

Dawes, Holt, Keya Paha, Rock, Sheridan, Sioux, and the unorganized territory (now included in Boyd County.)

CONGRESSIONAL DISTRICTS.

The state is divided into six congressional districts, in each of which one member of Congress is elected every two years. The counties constituting the several districts are as follows:

First District. Cass, Johnson, Lancaster, Nemaha, Otoe, Pawnee and Richardson.

SECOND DISTRICT. Douglas, Sarpy and Washington. Third District. Antelope, Boone, Burt, Cedar, Colfax, Cuming, Dakota, Dixon, Dodge, Knox, Madison, Merrick, Nance, Pierce, Platte, Stanton, Thurston and Wayne.

FOURTH DISTRICT. Butler, Fillmore, Gage, Hamilton, Jefferson, Polk, Saline, Saunders, Seward, Thayer and York.

Firm District. Adams, Chase, Clay, Dundy, Franklin, Frontier, Furnas, Gosper, Hall, Harlan, Hayes, Hitchcock, Kearney, Nuckolls, Perkins, Phelps, Red Willow and Webster.

Sixth District. Arthur, Banner, Blaine, Box Butte, Boyd, Brown, Buffalo, Cherry, Cheyenne, Custer, Dawes, Dawson, Deuel, Garfield, Grant, Greeley, Holt, Hooker, Howard, Keith, Keya Paha, Kimball, Lincoln, Logan, Loup, McPherson, Rock, Scotts Bluff, Sheridan, Sherman, Sioux, Thomas, Valley and Wheeler.

#### CHAPTER VI.—CORPORATE POWERS.

Precincts, legislative districts, judicial districts and congressional districts are mere pieces of territory set off for purposes other than that of self-government. In the farming community, the precinct is set off for convenience of voting, and a tract of county of size convenient for the duties of an assessor and for local courts. But the people of a precinct have no power to take any action outside of the election of certain officers. In the same degree, the people of the other districts named in this paragraph, can do nothing beyond the election of certain officers.

All the other districts named heretofore, the village, city, school district, township and county, are corporations. That is, all the people in each such district may make some rules and regulations for their own government in many local matters. In addition to the power to make such rules and regulations, they may also, as a body of people, buy, own and sell property, real or personal, when they need to do so, in the ordinary course of their business of local government; they may also make contracts that shall bind all the people and all the property in the district; they may also sue, and be sued, in the courts. They may do all these just as a business firm or company might do, and with the same effect. The precincts and other districts first mentioned can do none of these things. Legally, a corporation is a collection of persons authorized to act as an individual. The word comes from the Latin, corpus, a body.

#### QUESTIONS.

What districts, or sub-divisions of a state, have corporate powers, and what have not? What are corporate powers? Why are such powers advantageous to such districts?

### DIVISION II.

### THE STATE.

# CHAPTER I.—DIVISION OF POWERS.

The powers and functions of a state are divided into three sections, called "departments." This is because the state government performs three sets of duties. These sets differ so widely from each other that each can best be exercised by officers who do not have anything to do with either of the other sets of duties. In a monarchical government, all these duties are performed by one man. This may be one reason that such a form of government is so unsatisfactory, so unpopular. In a republican government, like that of the United States, and of the State of Nebraska, and in nations where there is a near approach to such a government, as in England, it is found by experience that each set of duties can best be performed by a separate and distinct set of officers. These three departments are called the Legislative, Executive, and Judicial Departments.

### THE LEGISLATIVE DEPARTMENT.

This is the department that makes the laws. The word means "law-bringing," "law-bearing:" The idea is that, as the legislature directly represents the people, and as the people are the source of all authority—their will being law, as the will of the Emperor is the law of the empire—the enactment of laws is simply an expression of the will of the people, the putting of that will into words. In this sense, the legislature brings the law from the people and puts it into the form of statutes.

In a more general sense, the legislature determines what rules are best for the people of the state, what regulations are wisest, and how these rules and regulations shall be enforced, and by what officers. "Law" is but another name for "rules and regulations." All this involves a determination of the extent that individual rights may be encroached upon under the constitution, in order to benefit all the people. The constitution provides by what state officers the general affairs of the state shall be administered, but it wisely leaves to the legislature the duty of regulating the smaller matters of local government. Nearly all control of cities, villages, counties, schools and of the ordinary rights and duties of officers and citizens, is given to the legislature.

In addition to the duty of making the laws, the legislature, as the immediate representative of the people, not only in the election at the polls, but in the selection at the caucuses, also, is given a sort of oversight of other state officers of both departments, and it may impeach any of them for official misconduct. This department is the most important and the most powerful one in the state government.

#### THE EXECUTIVE DEPARTMENT.

This department has control of the enforcement of the general laws, except such as are enforced through the judicial department. There are but two methods of enforcing the laws. One is through the judicial department, and the other is by the militia, which is under the control of the governor. When any member of the executive department meets resistance in the discharge of his duties, he must resort, in ordinary cases, to the courts and in more serious cases to the militia. This department ought to have been called the administrative department.

The officers in this branch of the state government have charge of the administration of certain duties. The laws of the state are executed or enforced by certain other officers specially designated for that service. In a certain sense, the executive officers, with the governor at their head, also represent the state in its corporate capacity, and in its intercourse with other states and with the United States.

#### THE JUDICIAL DEPARTMENT.

To this department is entrusted the duty to interpret the laws and even the constitution itself; to determine when the acts of the legislature are in conflict, or accord, with the constitution; when the action of other officers are such as the laws mean that they shall be, and when the actions of individuals or corporations are violative of the laws, or of the rights of others. As different people disagree about the meaning of the words of the constitution, of the laws, and of contracts, and as these disagreements lead to trouble, this department settles all such troubles. It is like the umpire, in base ball; it decides points of dispute. The courts do not entertain cases that do not contain actual conflicts of interest. They do not decide points that are referred to them in a spirit of curiosity.

# QUESTIONS.

Into how many departments are the powers of a state divided? Why are those powers so divided? What is the legislative department? What is the meaning of "legislative?" What are laws? How are laws enforced? What is the function of the executive department of the judicial department? Do all governments have these divisions?

# CHAPTER II.—LEGISLATIVE DEPARTMENT.

The general powers and duties of this department have been stated already in the preceding chapter. It remains for us, then, in this chapter, to consider the constitution of this department, and the methods by which it exerts its powers.

This department has four parts: a senate, a house of representatives, the governor, and the lieutenant governor. The senate is composed of thirty-three members, elected for two years. For the election of the senators the state is divided into thirty districts. One district elects three senators, one district elects two senators, and all the other districts elect one senator each. Many districts comprise more than one county. The house of representatives is composed of one hundred members, elected from sixty-three districts, for a term of two years.

The members of the senate and of the house must be voters. They must also reside in the districts from which they are chosen, and must have resided therein one year before the day of election. No person who holds an office under the authority of the State of Nebraska, or of the United States, which pays a living compensation, (excepting township officers, justices of the peace, and a few others) can be elected to either house. This is for the reason that persons can not do two things at once, and thus should not draw two salaries at the same time. In order to protect the state against the action of unscrupulous members who might have a money-interest in the passage of any law, it is provided that no person can be a member of either house who has any claim against the state, or who has any interest in any contract with the state.

Privileges of Members. Members of each house cannot be arrested during the session of the legislature, nor for fifteen days before the session, nor for fifteen days after its close, for any cause except for treason or other felony, or for a breach of the peace. No member can be made liable, in any civil action, or in any criminal proceeding, for any words spoken in debate in the legislature. These provisions are in order that the members may not be interrupted in the discharge of their duty by interested parties, and that they may be free from annoyance for petty offenses, and that they may be fearless in the exposure of the misconduct of others.

Sessions. Each regular session begins at noon on the first Tuesday of January of the odd-numbered years, 1893, &c. There is but one regular session in two years, but the governor may call a special session whenever, in his judgment, the public interest demands it. When a special session is called, the proclamation must state the objects of the session; that is, what public interests require the session; and the legislature cannot take up any business that is not specified in the call—excepting, of course, its own organization, which is a right inherent in all legislative bodies.

Organization. At the time fixed for opening the session, the secretary of state calls the house to attention, and presides until a presiding officer is elected from its own members. The lieutenant-governor is the president of the senate, by virtue of his office. After the presiding officer is selected, each house elects such other officers as it may need.

Quorum. A majority of the members elected to each house forms a quorum; it makes the number required to do any business. If there is not that number present, at

any time, the house can do no business except to send for the absent members, or to adjourn.

Rights of Each House. Each house determines for itself the rules and regulations that shall govern it in the transaction of its business, and chooses its own officers. It is the sole judge of the election and qualifications of its own members. Any dispute as to the election of members is settled by the house to which the persons claim to be elected.

**Expulsion of Members.** Neither house can expel a member, except by a vote of two thirds of all the members elected to that house. After a member has been expelled, his constituents may re-elect him, but he cannot be again expelled for the same offense.

Power to Protect Itself. Each house may protect itself from the disorderly conduct and contemptuous behavior, in its presence, of persons who are not members of that house, by arrest and imprisonment. Such imprisonment cannot usually exceed twenty-four hours, for one offense.

Journal. Each house keeps a journal, or record of its proceedings, and the same is published at the close of each session. Each house may have a secret session, at its discretion, and the proceedings of such session need not be published.

How Members Vote. At the request of any two members, the "yeas and nays" must be called and recorded in voting upon any question. This consists in calling the name of each member, who votes "aye" or "no," and the vote is so recorded. Upon the passage of a bill or of a joint resolution, the vote must be by "yea and nay," and must be recorded whether it is demanded or not. All votes given in each house are open; by viva voce, by the

living voice. While we say that the vote is by "yea and nay," yet as a matter of fact, the members always answer "aye" or "no" when they vote by "yea and nay."

Officers. Each house has a presiding officer. In the house of representatives, this officer is called the speaker; and in the senate, the president. The lieutenant-governor is president of the senate by virtue of his office, and votes in case of a tie only; but the senate always elects a president of the senate, who acts during the absence or disability of the lieutenant-governor. The senate has a secretary, and the house a chief clerk, and each has several assistants, as many as each house deems best. In addition to these, each house has a sergeant-at-arms, a janitor, a postmaster, a mail carrier, and often other subordinates.

Rules. The constitution lays down some rules for the passage of bills through the legislature; these rules, together with the rules and regulations specially adopted by each house for its guidance, determine the methods and forms by which laws are made. At the beginning of each session, after organization, each house adopts the rules that it desires, and both houses adopt certain other rules to govern their joint action.

Committees are appliances for assisting in the work of legislation. Each house provides in its rules for the appointment of as many committees as it may need. The house has over thirty committees, most of which consist of seven members each; while a few, the most important, consist of nine members each. The senate has nearly an equal number of committees, consisting of a less number of members. To these committees, each house refers bills. Each committee is named for the subject of legislation over which it has jurisdiction. To the committee on

"Finance, Ways and Means," are referred all bills that pertain to raising revenue. A committee on "Appropriations" considers all bills that relate to the disbursement of the public funds. So, to committees on Agriculture, Education, State Institutions, Cities, Counties, Railroads, Roads, Militia, are referred all bills, petitions and memorials relating to those subjects. No committee can take action upon any subject until a bill or other paper upon that subject has been referred to it by its house.

Bills. Each house may originate bills on any subject except one; the senate cannot originate bills appropriating the public funds; such bills must originate in the house. The house is the largest body and its members are elected from the smallest districts, wherefore it is presumed to represent, more fully and accurately, the people of the state. But any bill passed by either house may be amended by the other. A "bill" is the name given to the draft of a law when it is introduced and before it becomes a law by the signature of the governor, or otherwise,—then it is called an act, law or statute.

The Enacting Clause is that part of a law that gives force to it. It must be in this form: "Be it enacted by the Legislature of the State of Nebraska." If this clause is lacking, the bill cannot become a law and its passage is a nullity.

Title. A bill can have but one subject, and that must be clearly expressed in its title. This is a precaution to prevent deception and confusion. It enables members to know what subject the bill actually contains, so that they may give it special attention, or not, as they may be interested in that subject. So a person—lawyer or judge—looking up the law upon a certain subject shall need but

of the act does or does not contain what he desires to find. If a bill undertakes to amend a section or an act, it must repeat the whole section or the whole act just as it will read after it is amended. The title reads somewhat in this form; "A bill for an act to appropriate money to defray the expenses of the state government for the two years ending March 31, 1895;" or, "A bill for an act to amend section six of an act to provide a system of revenue, approved March 1, 1879."

Method of Legislation. When a bill is introduced, it is read in full by the clerk. If no one objects, it is ordered to be read a second time on a subsequent day. If any one does object, a vote is taken on the motion to read it a second time; if the motion is lost, the bill is rejected; if the motion carries, the bill goes over till another day. It is very seldom that any one does object to a second reading of a bill. The second reading takes place on a subsequent day, as the constitution provides that bills shall be read three times on three separate days.

Upon the second reading, the bill is ordered to be printed and is referred to a proper committee, unless some member objects to such action. If any objection is made, a vote is taken as before. After a bill is printed, a copy is delivered to each member of that house, and the committee to which it has been referred consults about it. If the committee approve the bill as it reads, it reports the bill back to the house and recommend that it pass. If the committee approve the substance of the bill, but find it defective or incomplete, the bill is amended, or a substitute for it is prepared; the amended bill or substitute is reported to the house with a recommendation that it pass. If the committee do not approve the bill, either in sub-

stance or form, a report to that effect is made to the house, with the recommendation that the bill do not pass. The committee, when it makes its report, can state the reasons for its approval or disapproval, or it need not do so.

After the committee has reported, the house may adopt or reject the report. If the report is favorable to the bill and the report is adopted, the bill is then ordered to be sent to the committee of the whole. If a report is unfavorable to the bill, a rejection of the report also sends the bill to the committee of the whole, or may send it back to the same committee for farther action, or to another committee. If the report is favorable, and the report is rejected, that usually kills the bill, although it may still be recommitted to the same or to another committee. In case of such recommittal, the house usually instructs the committee what to do with the bill. The house may favor a bill which the committee may not favor; in which case, the house will send it to a select committee made up of members a majority of whom are friends of the bill.

The Committee of the Whole consists of the whole house acting without the formalities and restrictions of the rules of the house, in order that the sense of the members of the house may be learned easily and quickly. It is simply a committee of the house, and, although composed of all its members, it has no organization but a chairman, who is designated by the presiding officer of the house, and a clerk elected by the house. Whatever action it takes is entirely informal and advisory, and must be reported to the house for approval. Usually, a bill is perfected in the committee of the whole and is passed by the house just as it comes from that committee.

Sometimes the house reverses the action of the committee. Some members will not vote, in the house where their votes will be recorded, as they voted in the committee where no record is kept. In this committee, amendments to the bill are proposed and voted upon, either adopted or rejected, and sometimes a substitute for the whole bill is adopted.

Action of the House. After the committee of the whole has perfected a bill, it reports to the house the result of its action, just as any other committee does. The house may then vote to adopt the report or to reject it as a whole. Usually, however, a vyea or nay" vote is aken in the house upon each amendment proposed by the committee. Other amendments may also be proposed and adopted. In the committee of the whole, and in the house after its return from that committee, are the places for amending a bill. Usually, it is perfected in those places. When the house gets through with the bill, at this stage, it orders it engrossed for a third reading, after which it cannot be amended without sending it to a committee. To engross a bill is to write it out just as it has been left by the house, putting the amendments into their proper places. This copy of the bill is compared with the original copy of the bill and of the amendments, by a proper committee.

After a bill has been engrossed, it is so reported to the house, when it is called up for a third reading and for passage. It is read in full, just as it has been amended, by the clerk, and a vote taken at once upon its passage, by "yea and nay." In each house it requires a majority of all the members elected to that house to vote for a bill in order to pass it.

ACTION OF THE OTHER HOUSE. When a bill has been passed by one house, the clerk writes upon the outside of the engrossed copy of the bill the fact that it has passed, and the date of its passage, and then delivers it to the other house. That other house has the right to amend it yet more, or to reject it entirely. If the other house should amend it, the bill, with its new amendments, are returned to the house from which it came. If that house agrees to the amendments, it so votes, and the bill is passed. If that house does not agree to the amendments proposed by the other house, it so votes and reports its action to that other house. That house may then drop the other amendments and pass the bill as it first came, or it may insist upon its amendments. In this last case both houses usually appoint committees who confer and make a compromise. When passed by both houses, the bill is enrolled, signed by the presiding officer of each house while the house is in actual session, and sent, by a committee of the house in which it originated, to the governor.

The Final Stage. The governor is one of the executive officers, but the constitution provides that he shall approve bills before they can become laws, except as stated hereafter. When the governor approves a bill, he writes upon it "approved," and signs his name as governor, with the date of approval. He reports such approval to the house where the bill originated. If he does not approve the bill, he returns it to the house wherein it originated, with his objections in writing. If the house is in session, the bill must be returned within five days (Sundays excepted) from the time he received it. If the legislature is not in session, then the bill and objections must be filed in the office of the secretary of

state, within the same time. If the governor does not make one of these returns of the bill and of his objections within the five days, the bill becomes a law without his approval. If the legislature is in session when the governor's objections are returned to it, the objections are entered at large upon the journal and the house proceeds to consider the objections. The house may adopt the governor's objections and amend the bill to overcome them, or it may pass the bill over the objections. For this purpose three fifths of the members elected to the house are necessary. If the bill is passed over the veto, by the one house, it must then be sent to the other house for its action. The concurrence of both houses, by a three-fifths vote, is required to pass a bill over the governor's veto.

In the matter of appropriation bills, the governor may veto any particular item thereof in the same manner that he may veto any other bill, and may approve the residue of the bill. Such vetoes may be treated like other vetoes, by the legislature.

When Laws Take Effect. It would be unjust to have laws take effect before people in distant sections of the state, and who might be seriously affected by them, know what the laws contain, or that such laws have been passed. Hence, the constitution requires that, except in extraordinary cases, laws shall not take effect for three calendar months after the adjournment of the legislature that passed them. When the nature of the law is such that it ought to take effect before the expiration of the three months, the fact that it shall so take effect at an earlier day must be stated in the bill. In this case, the bill requires two thirds of all the members elected to each house to pass it.

Publication. In order that the people may have an opportunity to see what laws have been passed, the laws are published in book form as soon after adjournment as possible. These laws are distributed to the officers of the state at the public expense, and copies are sold to such individuals as may desire to purchase.

United States Senator. At the last regular session before the expiration of the term of a United States senator from this state, the legislature elects his successor. For this purpose, on the second Tuesday after the organization of both houses, each house votes separately for that officer. In case no one man has the majority of all the votes cast in each house, both houses must then meet in joint convention every day and take one ballot each day, until an election is made. It requires a majority of all the votes cast to elect.

Adjournment. Neither house can adjourn for more than three days without the consent of the other house. All adjournments for a longer time than three days, and at the end of the session, must be made by concurrent or joint resolution. If there is a disagreement of the two houses as to the matter of adjournment, with reference to the date of the adjournment, as well as to the time to which the adjournment shall extend, the house that first moves the resolution of adjournment certifies all the facts to the Governor and he is authorized to adjourn the legislature from such a date to such a date as to him shall seem best.

### PROHIBITION OF POWER.

In the constitution, there are certain prohibitions upon the power of the legislature. The bill of rights, as we have seen, contains a great many prohibitions upon the power of the state. These apply equally to each branch of the state government, and to each officer thereof. And when the bill of rights makes a positive demand for certain things to be, or to be done, it is a prohibition upon the contrary being or being done. Thus, in section thirteen of the bill of rights, it says that all courts shall be open; it thereby prohibits the state or any department or officer thereof, or even any individual citizen of the state, closing the courts, whether by law, by official action or by individual effort. In addition to these general prohibitions, there are others laid expressly upon the power of the legislature.

Local Laws. Section fifteen of Article III, prohibits the passage of local, or special laws upon twenty-four different, enumerated subjects of legislation. Experience has shown that special legislation is the one great and sure source of corruption in this department of the government, at the same time that it introduces inequalities into the government of the state and gives special privileges where the privileges ought to be free and open to all.

OTHERS. (1.) In addition to the prohibitions upon the passage of special laws, the legislature is forbidden to grant extra compensation to any public officer, agent, servant or contractor of the state. This is a safeguard against corruption and profligacy. The compensation of a public officer cannot be increased nor diminished during the term for which he was elected. If an officer resign and the compensation of the office be increased, he cannot be appointed to the vacancy after such increase. If a person is so well satisfied with the compensation of an office as to accept it, he should be so satisfied to the end of the term, or resign.

(2.) The legislature cannot sell, mortgage or otherwise

dispose of the salt springs, nor donate any public lands to any railroad company, nor to any other corporation or individual.

- (3.) The legislature is forbidden to authorize or to legalize lotteries, gift enterprises or games of chance, in any manner or form, or under any pretense.
- (4.) The legislature cannot form a county so that that county, or the one from which it shall be taken, shall have an area less than four hundred square miles, and no county can be divided without the assent of the voters interested.
- (5.) No corporation can be created, nor can the charter of one be extended, changed or amended, (except those of state institutions for purposes of charity, education, punishment or reformation), by any special law. In all cases, the constitution says, where a general law can be made applicable, no special law shall be enacted. This leaves very narrow limits for special laws.

#### CONSTITUTIONAL COMMANDS.

When the bill of rights says that certain things shall be, these commands enforce themselves to the extent that no legislation is required to enable the courts and officers to take notice of and to enforce them. With some other commands of the constitution, it is different; the legislature must pass laws for their enforcement. These commands are as follows:

(1.) Census. In 1885, and every ten years thereafter, the legislature shall provide for a census of all the inhabitants of the state. At its first regular session after this census and after the United States census, the legislature shall divide the state into senatorial and representative districts and shall apportion the members of the senate and of the

house among such districts according to the number of the inhabitants of each district. In this apportionment, Indians not taxed, and officers, soldiers and marines of the United States army and navy are not to be counted.

- (2.) Appropriations. The appropriations for the expenses of the state government shall be made by each legislature, to extend to two years from the close of the fiscal, or calendar, quarter in which the legislature adjourns.
- (3.) VACANCIES. Provisions shall be made, by a general law, for filling such vacancies in the constitutional offices as are not provided for in the constitution.
- (4.) FREE Schools. The legislature shall provide for the free instruction, in the common schools of the state, of all persons of the state between the ages of five years and twenty-one years.
- (5.) Distribution of School Funds. Provision shall be made for an equitable distribution of the income of the school fund, among the school districts of the state.
- (6.) Equal Taxation. The legislature is required to provide a sufficient revenue for the expenses of the government, in all its departments and grades, in such manner that every person and corporation shall pay a just proportion of the taxes according to the value of his or its property or franchises. That value shall be ascertained in such manner as the legislature shall direct.
- (7.) FUNDING STATE DEBT. The constitution instructed the legislature to provide, at its first session, a law for the funding of the state debts, including treasury warrants and the floating indebtedness, at a rate of interest not exceeding eight per cent. This command of the constitution was obeyed by the legislature of 1877.

- (8.) Auditing Claims. The legislature shall provide for the examination, by the auditor of public accounts, and approval by the secretary of state, of all claims against the state, before their payment, and for an appeal, by those aggrieved by the decision of those two officers, to the district court.
- (9.) County and Township Officers. The legislature shall provide for the election of such county officers and township officers as may be necessary.
- (10.) Township Organization. The legislature shall provide, by general law, for a township organization of counties whose voters desire it.
- (11.) Railroads. The legislature shall pass laws, with suitable penalties, enforcing the provisions of section one, article XI, concerning railroads and their reports to the state officers.
- (12.) REGULATING RAILROADS. The legislature shall pass laws to correct abuses and prevent unjust discrimination and extortion in all charges of express companies, telegraph companies and railroad companies.
- (13.) MILITIA. The legislature shall determine by law what persons shall constitute the militia of the state.
- (14.) Suits Against the State. The legislature is required to provide the manner and in what courts the state may be sued.

### CONSTITUTIONAL GRANTS.

There are also several special grants of authority to the legislature, by the constitution, which do not amount to commands. This authority may be exercised by the legislature or it may not be exercised. The following are the subjects of legislation that come under this head:

- (1.) Judicial Districts. The division of the state into judicial districts may be changed at the will of the legislature, and the districts and judges may be increased in the legislative discretion. But no increase, and no change in the boundaries, of districts can be made so as to shorten the term of any judge of a district.
- (2.) Votes of Militia. Laws may be made providing that voters, in the military or naval service of the United States, and not in the regular army or navy, may be allowed the exercise of the right of suffrage.
- (3.) Reformatories. Reform schools for children, under the age of sixteen years, may be established.
- (4.) CITIES AND VILLAGES. The legislature may vest in cities, villages and towns, the authority to make assessments upon property for local improvements and to levy and collect taxes for corporate expenses.
- (5.) REGULATE RAILROAD CHARGES. The legislature may establish maximum rates of charges for the transportation of passengers and freight on the railroads of the state.

The courts of states have rather uniformly held that the legislature is the judge of its own duty in respect to obedience to affirmative commands of the constitution, and that there is no means for compelling a legislature to pass a law on any subject. The only redress that the people have, when the legislature refuses to do its duty, is to displace the members by the election of others.

# QUESTIONS.

Name the parts composing the legislature. How many members in each house, and how elected? What are the qualifications of members? What are the privileges of members? When are regular sessions held? When special sessions? How do the

houses of the legislature organize? How many constitute a quorum and what is a quorum? What are the rights of each house? What is the rule about expulsion of members? How may each house protect itself? What about a journal? Explain how members vote. What officers has each house? What is said about rules? What are committees, and how constituted? What is said of bills? What is the enacting clause? Describe the method of enacting laws. What is the committee of the whole, and how constituted? What action follows the action of the committee of the whole? Why is a bill engrossed, and what occurs after engrossment? After a bill has passed in one house, what then becomes of it? Detail the stages of a bill after both houses have agreed upon it. When do laws take effect? When and why are laws published? How are United States senators elected? What is said about an adjournment of the legislature? What prohibition does the constitution place upon the power of the legislature? What general advantage in such prohibitions? How do local laws tend to corrupt a people? Name some of the prohibitions. What is the constitutional command in regard to the census, appropriations, vacancies, free schools, school funds, equality of taxation, the state debt, auditing claims against the state, local officers, township organization, railroads, militia, and suits against the state? In case the legislature does not obey the constitution, what remedy has the people? What other remedy ought the people to have, and why?

# CHAPTER III.—EXECUTIVE DEPARTMENT.

The executive or administrative department of the state consists of the following officers: governor, lieutenant-governor, secretary of state, auditor of public accounts, treasurer, attorney-general, superintendent of public instruction, and commissioner of public lands and buildings. There are also five boards, composed of portions of these officers, namely: board of public lands and buildings, board in charge of educational lands and funds, board of public printing, board of transportation, and state board of health, and a bureau of labor and industry.

Some Qualifications. The governor and lieutenant-governor must be thirty years of age, and must have resided in the state two years previous to their election. No one of these officers, except the lieutenant-governor, is eligible to any other state office during the period for which he was elected.

The treasurer may be elected for two consecutive terms, but he cannot be elected for a third term until two years have passed since the close of his second term. This provision is not uncommon as applied to officers who handle the public funds, as it permits a complete examination of that officer's books, and compels a counting of the funds in his hands. A frequent examination of the books and funds of public officers, who are the custodians of public money, is one of the best means to prevent defalcations.

The Governor. The chief officer of this department is the governor. The constitution says that he "shall take care that the laws be faithfully executed." Neither the constitution nor the laws point out the means by which he shall secure the faithful execution of the laws. In the instance of a county officer, where the law said that he should do a certain act but did not point out the means, the supreme court decided that he might use any means that would accomplish the purpose. It is probable that the same court would sustain the principle of that decision in its application to this duty imposed upon the governor by the constitution.

Makes Appointments. The governor issues commissions to all the officers of the executive department, and of the judicial department, and to the military and naval officers. He nominates, and, by the consent of the senate, he appoints all officers for which the constitution and laws do not otherwise provide, and he may remove, for

incompetency, neglect of duty, and malfeasance in office, any officer whom he appoints. He also fills vacancies in most of the offices in the executive and judicial departments.

Message. At the beginning of each session of the legislature, at the close of his term of office, and at any other time when the legislature may request, the governor must send a message to the legislature, giving such information about the public business and recommending such laws as he may deem best for the state. In his message, at the beginning of the session, he must present an estimate of the amount of funds needed for the expenses of the state government for the next two years.

Reports. Before the beginning of the regular session of the legislature, each officer of this department, and the head of each state institution, sends to the governor a report of his office or of his institution. These reports are transmitted by the governor to the legislature with his message. The governor is also authorized to require from any officer of this department, and from the head of any state institution, information in writing and under oath, upon any subject officially pertaining to that office or to that institution.

Pardons. The governor may pardon any person who has been convicted, under the laws of the state, of any crime except treason and cases of impeachment. He may also commute any sentence to a less harsh or ignominious one. He may grant reprieves at his discretion. He must report to the legislature his whole action in these matters.

MILITARY RANK. The governor is the commander-inchief of the military and naval forces of the state, when they are not called into the service of the United States, and he may call them out at any time to help execute the laws, to suppress insurrection, and to repel invasion.

As we have already seen, the governor may call extra sessions of the legislature whenever, in his opinion, the public interests demand it. In treating the legislative department, in the last chapter, it has been shown that the governor may adjourn the legislature when the two houses disagree on that subject, and that ordinarily bills must be signed by the governor before they can become laws.

The Lieutenant-Governor is the presiding officer of the senate, and as such is, in some sense, a part of the legislative department. In case of the death, impeachment, failure to qualify, resignation, absence from the state, or other inability of the governor to perform the duties of his office, the lieutenant-governor succeeds as chief executive of the state, with the same rank, title, powers, emoluments, rights, privileges, and duties as the governor had enjoyed, or may enjoy. When presiding in the senate, he votes in case of a tie, only.

The Secretary of State has charge of all the papers, documents, laws and resolutions of the legislature after its adjournment, and he publishes the laws and proceedings of that body. He countersigns all commissions issued by the governor, and approves claims allowed against the state by the auditor.

The Auditor. The anditor of public accounts is the general accounting officer of the state. He keeps all the books, vouchers and documents relating to the accounts, contracts, revenue and fiscal affairs of the state. Before the regular session of the legislature, he sends to the governor a digested statement of the condition of the finances and of the expenditures of the last two years,

and an estimate of the revenue needed for the next two years, and such plans as he may form for diminishing the expenses, increasing the public credit, and promoting the efficiency of the revenue system.

He audits, adjusts and settles all claims against the state, if such claims arise under authority of any statute; draws warrants against the state treasury for the payment of such claims; keeps the accounts with all county treasurers, and settles with them annually.

The Treasurer receives the money of the state and pays it out on the warrants of the auditor, countersigned by the secretary of state. He reports to the legislature the condition of the treasury, at its regular session, and at any other time when the legislature may request it.

The Attorney General is the law officer of the state. He appears for the state, in the supreme court, in all criminal cases and in all civil actions in which the state has any interest. He prepares drafts of contracts, and gives opinions on matters of law for any state officer, whenever requested.

The Superintendent of Public Instruction is at the head of the educational interests of the state. His powers and duties are given fully in the chapter on Education.

The Commissioner and Board of Public Lands and Buildings. The commissioner of public lands and buildings is the chairman and executive officer of the board of public lands and buildings. This board consists of this officer, the secretary of state, the treasurer and attorney general, and it has general supervision of all the public buildings and lands of the state, except the lands and buildings belonging to the common school fund or to any of the educational institutions. The charge of

the board extends to the state capitol, the penitentiary, the asylums for the blind, the deaf and dumb and the insane, the reform schools, to the salt lands and salt springs, and to all the grounds connected with those buildings. All the records, papers, documents, lists of lands, titles and other matters relating to these lands or buildings are kept in the office of the commissioner.

Board of School Lands and Funds. The governor, secretary of state, treasurer, attorney general and the commissioner of public lands and buildings constitute a board for the control of the lands donated to the state, by the United States, for the common schools, for the state university and for the agricultural college, and of the funds derived from such lands. The records, papers, documents and lists pertaining to these lands, are kept in the office of the commissioner of public lands and buildings, who is the chairman and executive officer of the board.

Board of Public Printing. The auditor, treasurer and secretary of state constitute a board for awarding the public printing for the state. In November, of the year next preceding the regular meeting of the legislature, the board advertises for proposals for the state printing. In December, the bids are opened and the awards are made to the lowest and best responsible bidder. The award is for the two years next following. This printing includes the reports of the state officers and of the public institutions, the bills, journals, and laws of the legislature, and the blank books and other printing needed by the state officers and public institutions.

Board of Transportation. The attorney general, the secretary of state, the anditor of public accounts, the treasurer, and the commissioner of public lands and build-

ings constitute the board of transportation. The board has authority to inquire into the management of the business of common carriers, and may require the attendance and testimony of witnesses, and the production of books, papers, contracts and tariffs, and may inquire into all complaints against such common carriers. It has a general supervision of the railroads of the state, shall inspect the condition of the road, track and rolling stock, with reference to the safety, interest, and convenience of the public, and inquire into complaints of discrimination against patrons. It shall require an annual report from common carriers concerning cost of construction and of operation, and the volume of its business. When it finds complaints to be well-founded, it makes such orders as it may deem best. It makes an annual report to the governor of all its proceedings and actions during the year.

State Board of Health. The governor, the attorney general, and the superintendent of public instruction, constitute the state board of health. This board inquires into the competency of persons to practice medicine, surgery and obstetrics in the state of Nebraska, and grants certificates to those found to be competent; it is also required to see that all laws concerning the practice of medicine, surgery and obstetrics in the state are enforced.

Labor and Industry. The governor is commissioner of the bureau of labor census and industrial statistics. He has a deputy commissioner who does most of the work. The duty of this bureau is to collate and publish statistics and facts relative to manufacturers, industrial classes, and material resources of the state, and especially to examine into the relations between labor and capital. The bureau examines also into such subjects as protection to life and health in factories, shops

and mines; the employment of children in such places; the hours of employment in labor; the educational, sanitary, moral and financial condition of laborers and artisans; the cost of food, fuel, clothing, and material for building; the causes and results of strikes, and other matters affecting the industrial and manufacturing classes.

## QUESTIONS.

What officers constitute the state department? What are some qualifications required for governor and lieutenant governor? For treasurer? What is the general duty of the governor? What appointments does he make? What about the governor's message? What reports may he call for? What is the law about pardon? What relation has the governor to the militia? What are the duties of the lieutenant-governor? The secretary of state? The auditor? The treasurer? The attorney-general? The superintendent of public instruction? The commissioner of lands and buildings? What are the powers and duties of the board of public lands and buildings? The board of school lands and funds? The board of public printing? The board of transportation? The state board of health? The bureau of labor and industry? What advantage may the bureau of labor and industry be to the state?

# CHAPTER IV.—JUDICIAL DEPARTMENT.

The third department of the state government is the judicial. The judges of the supreme court and of the district courts are elected from the lawyers of the state, who have had long experience in the practice of the profession, and who are known to be learned in the law. The supreme court is the apex of the judicial system of the state. This system consists of the judicial system of the state. This system consists of the justices of the peace, constables, police judges, judges of the county courts, judges of the district courts, district attorneys, reporters, clerks and sheriffs, and the judges of the supreme court,

clerk and reporter; the court of impeachment, clerk and reporter.

Powers of the Courts. The different courts do not all have the same power; that is, they do not all have the right to try suits of the same amount, nor suits about the same matter. But all the judges and justices of the peace have the right to administer an oath or affirmation in any matter; to take acknowledgements of written instruments, like deeds and mortgages; to perform a marriage ceremony. They may also all act as peace officers; that is, to take measures to preserve the peace, by causing the arrest of those who disturb the peace in their presence. In most other respects the different courts have different duties, and different powers.

The Police Judge has the exclusive right to try all the cases of violation of city ordinances, and he also hears criminal cases for offenses against the state laws, when the offense is committed inside of the city limits, and if the crime could be heard by a justice of the peace. The penalties which police justices may inflict cannot be more than a fine of one hundred dollars and imprisonment in the county jail for three months. City marshals, police officers, constables and sheriffs may act as executive officers of police courts, and serve papers or make arrests. Juries are not called in these courts, unless specially demanded by the accused. The jury consists of six voters, selected from citizens of the city.

Justices of the Peace. It has already been stated that two justices of the peace and two constables are elected in each precinct and in each township. If a precinct or a township contains a city, the law modifies that statement. In metropolitan cities six justices of the peace and six constables are elected; in cities of the first

class, three justices and three constables; and in cities of the second elass, two justices and two constables in each ward.

A justice of the peace has the right to try actions where the amount sued for does not exceed two hundred dollars, and the right to try criminal offenses when the fines may not exceed one hundred dollars, or the imprisonment in the jails three months. When crimes are committed in the county, the punishment for which may be more than one hundred dollars and the imprisonment more than three months, the justice of the peace may hear the evidence, and, if the evidence makes a probable case, the prisoner may be bound to appear at the next term of the district court for trial.

A justice of the peace has not the right to try a suit for damages for assault and battery, for malicious prosecution or slander, suits against officers for misconduct in office, nor suits on contracts for real estate, nor any suit where the title to real estate may be in issue. Constables and sheriffs are executive officers of the justices' courts for the service of papers and the arrest of accused persons.

The County Court, in its civil and criminal jurisdiction, is an enlarged justice's court. It may try civil suits, where money or personal property is involved to the amount of one thousand dollars. It may try or hear criminal actions just as justices of the peace may do, and it has no right to try the classes of suits mentioned above which justices of the peace cannot try.

JURISDICTION. When a court has authority over a matter, and no other court has that authority, that is called "exclusive jurisdiction," because other courts are excluded from that jurisdiction. When two or more courts may try the same matter or case, that is called

"concurrent jurisdiction," because the jurisdiction of them all run along together. Concurrent means "running together."

The jurisdiction of justices of the peace and of county courts, over civil actions below two hundred dollars, is concurrent; the jurisdiction of county courts and of the district courts in actions over two hundred dollars and below one thousand dollars is concurrent. When a man has an action which he can bring into two or more courts, he can choose the court that suits him best.

The county court has exclusive jurisdiction in several matters:

- (1.) When persons die leaving property, the county court has control of the property until the debts are paid and the property that is left can be distributed. If the deceased person leaves a will and appoints a person to dispose of the property, the court has control of the whole matter to see that everything is done as the will directs. If the will does not name any one to execute the will, the court appoints one. If a person dies without a will, the court appoints a person, called an administrator, to dispose of the property for the payment of the debts, and to distribute what is left among the heirs.
- (2.) When a person who is a minor,—that is, less than twenty one years of age,—has property of his own, the court appoints a guardian for him, and has control of the guardian to see that the property is well cared for until the minor reaches the age of twenty-one.
- (3.) When a person with property is insane, or is himself too old, or too ill, to manage it, the court will appoint a guardian to have charge of the property and to have the care of the person of the insane, aged, or sick person, and

the court has control enough to prevent waste or bad usage of the person or property.

- (4.) If a person with property is a spendthrift, and is wasting his property by excessive drinking, gaming or other debauchery, a guardian may be appointed to take care of his property and person.
- (5.) When parties are bankrupt,—that is, when they cannot pay all their debts,—and they want to have all their property sold to pay as much of their debts as it can pay, they make an assignment for the benefit of their creditors. The county court has charge of this, and makes proper orders to the assignee in regard to the sale of the property and the payment of the debts.
- (6.) Whenever it is desirable that any person should adopt the child of another person, written application is made to the judge of the county court, who hears the application, takes testimony, if needed, and issues orders in conformity with the interests of all parties.
- (7.) The judge of the county court issues licenses for parties who desire to marry, authorizing them to be married inside of the county. The officer, or minister, who performs the marriage ceremony, must send to the court a certificate stating when and where he married the persons named. This certificate the judge keeps on file in his office.

Constables and sheriffs are executive officers of the county court, as of a justice's court. The jury consists of six voters, and is called only when demanded by one of the parties.

The District Court has exclusive jurisdiction in the trial of civil and criminal cases, where the amount sued for is above the amount of one thousand dollars, and when the punishment for the crime is more than one hundred dollars fine and six months' imprisonment, and in all cases where the title of land is in issue. This court has what is called "common law jurisdiction;" that is, the jurisdiction which the courts had in England under the "common law." This extends to all subjects where the law does not forbid, both in civil matters and in criminal cases.

This is called a *court of record*, because all the proceedings are in writing, and the court has a clerk who makes a record of all that is done in the court, and who has an office in which he keeps all the papers. The sheriff is the executive officer of this court; he serves notices, makes arrests, has charge of prisoners, takes and sells property, and obeys the lawful orders of the court.

The county attorney appears as the attorney for the state in the prosecution for crimes, in the district courts, and in suits on bail bonds. He must also prosecute before justices of the peace, if he can attend to it.

The judge of the district court appoints a reporter of ability and competency, who takes down, in short hand, all the testimony at trials in that court. These short hand notes must be preserved by him, and a transcript of them furnished to any one interested, upon request.

In most cases, when parties who have suits before police judges, justices of the peace, or the county court, do not like the decision of the court or the verdict of the jury, they may appeal to the district court. Here the case is tried over again, just as though it had never been tried.

Supreme Court. When parties are not satisfied with the decision of the district court, they can appeal to the supreme court in some kinds of actions, or go "on error" in other kinds of actions. When the suit is ap-

pealed to the supreme court, it is tried over again. Cases in *error* are those where the party thinks the district court has made an error in its decision on a point of law. The party asks the supreme court to correct this error of the district court, and to send the case back to the district court for a new trial.

Most of the business of the supreme court is the hearing of the suits that are taken up from the district courts. There are some classes of matters that can be taken to the supreme court, at first, and that do not have to go into the district courts, namely:

- (1.) Cases relating to the public revenue.
- (2.) All civil cases in which the state may be a party.
- (3.) Mandamus.—This is an application to the court for an order commanding an inferior court, or a public officer, to do something which that court or officer ought to do. "Mandamus" is a Latin word, and means "we command" the person to whom it is addressed.
- (4.) Quo Warranto.—This is an action to find out by what authority a person holds an office. It is brought when it is alleged that the person against whom it is brought has no right to the office which he tries to hold. The words are Latin, meaning "by what authority."
- (5.) Habeas Corpus.—This is an action brought by a person who says that he is illegally deprived of his liberty and who asks the court to set him free. In olden times the order of the court to the sheriff, in such suits began, "habeas corpus," "you will have the body" of the person named in this court, on a day named, in order that he may show the unlawfulness of his imprisonment. In those times the orders of the courts were in Latin.

The decisions of the supreme court, and the reasons for

the decisions, are always in writing, and are recorded by the clerk, and published by the reporter.

The Court of Impeachment is not very often used. When any member of the supreme court is impeached, he is tried by a court composed of all the district judges of the state. When any other state officer is impeached, he is tried by the supreme court.

To impeach is to accuse a person of misconduct, or bad conduct, in the discharge of his official duties. For crimes done by the officer, as an individual, he is tried in the criminal courts like other persons.

What Courts are for. Courts are established for two purposes:

CIVIL; to award money or other valuable thing to any person who has been damaged by the action of another, and to make orders in some cases prohibiting a person doing certain things that may injure another person, and to command that things which ought to be done shall be done.

CRIMINAL; to try persons charged with crime; to punish them if guilty and to set them free if innocent.

In the civil department of the courts, when the violation of a law injures a person, such person may sue for compensation for such injury. If a personal right is violated, the person injured may sue for compensation. There is hardly an injury which one person may receive from another which may not be the subject of a civil action.

If I am slandered, or beaten, if it has been of any pecuniary damage to me, I may sue for the amount of that damage. If a man encroaches upon my land and damages it, I may sue him for that damage. If a man unjustly accuses me of a crime, or illegally and maliciously imprisons me, I may sue him for the damage it does me.

In most cases of malice or injustice, the law presumes that the action damages the person and he does not always have to prove actual damages in order to be entitled to a judgment. If a person owes me money which he neglects to pay, I may sue him for it. If, in selling me goods, or lands, which one warrants to be of a certain goodness, and they do not prove to be so good, then I may sue him for the difference between the actual value and the value they would have had if they had been as good as he warranted them to be. It would take a large book to contain a detailed list of all the causes of a civil action.

## QUESTIONS.

From whom are judges usually selected, and by? What powers reside in all judges? What is the jurisdiction of a police judge? A justice of the peace? A county judge? Over what subject matters has a county judge original and exclusive jurisdiction? What actions may a justice of the peace, and a court, not try? What is jurisdiction? Give the various kinds? What is the jurisdiction of the district court? What jurisdiction has the supreme court, and how attained? A court of impeachment? What are the two purposes for which courts are organized?



### DIVISION III.

### ADMINISTRATION.

### CHAPTER I.—RIGHT OF SUFFRAGE.

The constitution could not be adopted by the people except at an election. There could be no officers of the state, in any department, until after an election. For these reasons it is best for us to consider the subject of voters, before we present more than the bare frame-work of the government.

Who are Voters? The voters are drawn from two classes of individuals: the citizens of the state and of the United States, whether they become citizens by birth or by naturalization; and those who have declared their intention to become citizens, thirty days before the election at which they offer to vote. A person declares his intention to become a citizen by taking out his first set of naturalization papers. The reason for confining the suffrage to these two classes is easily understood. who expect to remain permanently under a government, must have a greater interest in having that government a good one, and in having it administered by good officers, than will those who expect to remain but a short time. Hence these provisions help toward securing a good government and good officers. In order that foreign-born persons may not be incited to take out their first papers just before an election, during the excitement of the canvass, but may take them in the ordinary course of their residence, it is provided that they must have had their first papers thirty days before they can vote.

An examination of the constitution and of the laws will show that many persons may belong to one of these two classes and may yet be denied the right and duty to vote. There are seven classes of minor qualifications which voters must possess. They are as follows:

They must be male persons. The convention which framed the constitution discussed the subject of the extension of suffrage to women, and many members were in favor of that extension. It was shown that the women, as a whole, had not shown that they desired to vote; and many doubted the policy of it, as so few women take any interest in political affairs. The legislature has extended to women the right to vote at school meetings, as will be seen by reference to the chapter on education.

They must be twenty-one years of age. Before young men reach that age, they are generally forming their character, their habits, and their opinions. Many are fully competent at a much earlier age to vote, but a constitution cannot very well discriminate between individuals of a class. Twenty-one has long been held, almost universally, to be about the age when young men become able to act as independent men.

RESIDENCE IN THE STATE. They must have resided continuously in the state for six months previous to the election at which they offer to vote. This provision is for the purpose of enabling voters to become somewhat acquainted with the government of the state and with the candidates for whom they are to vote. A person is not competent to vote till he knows something of the men for whom, or against whom, he votes.

RESIDENCE IN THE COUNTY. They must have resided

in the county in which they offer to vote, forty days before voting. And this for the like reason that they are required to reside in the state six months. As the county is smaller than the state, an acquaintance with its inhabitants and candidates can be made in less time than can be made in the state.

RESIDENCE IN PRECINCT OR WARD. This means a voting precinct, which is the extent of territory, all of whose voters vote at one place. In the country it usually embraces a whole precinct or township. Cities, as we have seen, are divided into wards, for purposes of government, and each ward is a voting precinct. In the larger cities the wards are divided into voting districts of convenient size and a voter must reside in such district seven days before offering to vote. In cities of the second class, a residence of ten days in the ward before voting is required. In villages and cities, those who vote at elections for village officers or city officers, must have resided in the corporation a period of three months in order to be legal voters. One object for these three provisions of residence is to show that the voters are settled there and thus have an interest in the election, and, also, so that political partisans cannot colonize voters,—that is, take them from precincts where they are not needed, and transfer them to precincts where their votes will give their party or friends a majority.

Must be sane. A voter must also be of sound mind, so that he may have the judgment, discretion and knowledge that shall enable him to vote intelligently. "Non compos mentis" means "not sound of mind."

Not a felon. A person who has been convicted of treason, or other felony, either under the laws of Nebras-ka or of the United States, cannot vote. This denial of the

suffrage is one of the punishments which the constitution inflicts upon felons. This is done on the theory that the privilege of suffrage is a valuable one, and that all persons greatly desire to exercise it. To take this privilege from criminals, it is thought, will exercise a restraining influence upon those who are inclined to commit crimes. Persons deprived of suffrage by felony, can have the privilege restored to them by a pardon. Another reason for this provision is that persons who will not obey the law have not the character that a lawmaker ought to possess. The idea is that persons of good character, only, should have the suffrage.

What is Residence? In discussing elections and voting, it is important to have a clear idea of the term "residence," for we learn that only those who have a residence in a place can vote there. Generally, only those have a residence in a place who make that their home, and who intend to remain there. But, sometimes, a married man has his place of business in one voting district and has his family in another. In this case, he must vote in the voting district in which his family lives.

A man may have a permanent residence, as a farm in the country, or a furnished house and lot in a village, while he goes to another place to live for a few years, for some special business, intending to return after a while to his permanent home. County officers are often required to live with their families at the county seat, while they have a house or farm in another part of the county to which they expect to return after their terms of office expire. So with some state officers who are obliged to live at the capital during their terms of office, expecting to return to their permanent residences in other parts of the state when relieved from office. They cannot vote at the

place where they are holding the office, but they must vote at the place of their former residence. Residence, as we see, may be temporary or permanent. The voting precinct of a voter's permanent residence is the place for him to vote. So it is provided that soldiers, sailors and marines, while in the service of the United States, though stationed within the state for a period of six months, are not to be allowed to vote. There residence here is for a temporary purpose, and is not voluntary on their part, either in coming or departing.

The Militia. The constitution provides that electors in actual military service of the state or of the United States, and not in the regular army, may vote at such place and under such regulations as the law may provide. So far, the legislature has not provided any regulations under this section of the constitution.

Registration. In metropolitan cities, and in cities of the first class, the names of all voters must be registered ten days before the election at which they offer to vote. In large cities, where there is a large class of floating population, the election officers find great difficulty in knowing who are actual residents. Hence, the voters must prove their residence before a regularly appointed officer, when there is no excitement or hurry. If a voter's name is wrongfully omitted from the list, he may prove his residence at the time of voting.

Protection to Voters. We have seen in section twenty-two, of the Bill of Rights, that no one is allowed to put any impediment or hindrance in the way of a free exercise of the privilege of voting. Section five of Article VII. details more specifically how the voter shall be protected. For the crime of treason or other felony, and for a breach of the peace, the voter may be arrested

at any time of election day, and wherever he may be found, as these crimes menace the foundations of civil government. For any other crime he shall be privileged from arrest, on election day, not only while he is in actual attendance at the voting place, but also while he is going to it, or returning from it. This provision is to prevent any annoyance of a voter by partisans, for light offenses. The state considers that voting is not only a privilege but a duty. This protective feature of the law offers an inducement to voters to vote. For the same reason, no voter can be compelled to do military duty on election day, except in time of war and public danger. The Romans had a saying that "the public safety is the supreme law." In the spirit of this saying, every elector must help save the public, before he can vote. His right to vote depends upon the solidity and permanence of the state. If that fails, his elective franchise is worthless. All votes given at the regular state elections must be by ballot. This protects the voter, in that it enables him to vote his sentiments freely and in such a way that those who may want to influence him into voting against his convictions may not know how he votes. The method of voting is more fully described in the next chapter.

Illegal Voting. The law justly imposes a punishment upon any one who shall vote before he has the qualifications of a voter, or votes at a place where he has no right to vote. The punishment is from one year to five years in the penitentiary. It also punishes with fine or imprisonment any one who procures or aids illegal voting.

Bribery. Any one who bribes a voter, or attempts to bribe him, to influence his vote, is also punished by fine or imprisonment, or both, and by depriving him of the elective franchise till pardoned.

Challenges. A person who offers to vote at any election may have his right to vote challenged by any voter of that voting precinct. The challenge may be for any cause that disqualifies the person offering to vote. A person who is thus challenged cannot vote unless he satisfies the judges of election by his own oath, or otherwise, that he is entitled to the right.

### QUESTIONS.

From what classes of citizens are voters drawn? Why are they confined to these two classes? How many and what exceptions? Why should residence be a qualification? What other exceptions would you add? Why? What is residence? Why must voters be registered in large cities? What protection has voters? How are votes given, and why so given? What is the punishment for illegal voting; for bribing a voter? May voters be challenged, and why?

## CHAPTER II.—ELECTIONS.

At least twenty days before any election in which the voters of the whole county are to take part, the county clerk makes out a notice thereof, three copies of which are required to be prominently posted up in each voting precinct. The notice states the day of election, the offices to be filled and the place in the precinct where the voting will be done.

Opening The Polls. The polls are required to be open at eight o'clock in the morning, and to remain open until six o'clock in the evening. If any of the judges or clerks of election, duly elected, do not appear at the polls by eight o'clock in the morning, the voters who are already assembled may fill the vacant place by a viva voce election.

Upon opening the polls one of the judges must make proclamation of the fact, in a loud voice, and it would seem that no ballot can be legally received until such proclamation is made.

Ballot Box. Before any vote can be received the judges must make public exposure of the open ballot box, in order that the voters may know that no ballots have been illegally placed in it before the opening of the polls. The ballot box is then locked and the key is kept by one of the judges. The box cannot be opened under any pretext, until the close of the polls. The ballot box cannot be legally removed from the view of the voters, at any time, until all the votes are counted and canvassed. This is to prevent any suspicion of illegal treatment of the ballot box, and also to diminish the opportunities for illegal treatment of it.

Manner of Voting. At elections in which the voters of the whole county take part, the county clerk prints the ballots at the expense of the county. The ballot must contain the names of all the candidates for all the offices to be filled at that election. These ballots are printed upon white paper and are kept by the judges of election. When a voter desires to vote, he enters the enclosure within which the judges and clerks sit, and the judges furnish to him a ballot, on the back of which two judges must have written their names. The voter then goes into one of the booths provided for the purpose. Opposite to the name of each person for whom he wishes to vote, the voter places a cross (X) with pen or pencil. He then folds the ballot in such a way that the names of the candidates will be concealed, and delivers it to one of the judges, stating his name at the same time. Upon receiving the ballot the judge repeats the name of the voter

in a loud voice. If no one challenges the voter, and if the judges are satisfied that he is a legal voter, the two clerks will record his name in books provided for that purpose, and the judge will deposit the ballot in the ballot box. When a voter is unable to read the ballot, or is unable to make the cross required, he may so state to the judges under oath, and then one of the judges is required to go with him into the booth, and to help him make out his ballot. No person is allowed to go inside of a booth with a voter while he is preparing his ballot, unless when a judge goes in to help him, as above stated.

In Cities, where the registry law is operative, the judges must also ascertain that the name of the person offering to vote is on the registry list. If not so on that list, the ballot cannot be received unless the person can show that he is a legal voter, and he must also give a satisfactory reason for his failure to register as a voter.

Challenge. If a person who offers to vote is challenged, he must prove, to the satisfaction of the judges, that he is entitled to vote, before his ballot can be received.

Closing. At least thirty minutes before the hour set for closing the polls, one of the judges must make proclamation of that fact, in the same manner that the opening of the polls was announced.

Canvass. As soon as the polls are closed, the judges and clerks proceed to count the ballots and to ascertain the result. The canvass must be public, so that the voters may see if everything is done fairly and honestly. These lists kept by the clerks, are compared and errors corrected, the number set down, and the judges and clerks then sign the poll books.

Counting. The ballot box is then opened, the ballots

counted and compared with the names on the poll books. If more ballots were cast than there are names of voters recorded, the ballots are shaken up and as many ballots drawn out as the number of ballots exceeds the number of names recorded. The judges and clerks then proceed to count the number of ballots east for each office and to record the result in the poll books.

Sealing the Ballots. When all the ballots are counted and the result recorded, the judges seal up the ballots in one package, and one of the poll books in another package. The two packages are then sent to the county clerk by one of the judges or clerks. The other poll book, in counties under township organization, is deposited in the office of the township clerk; in counties not under township organization, it is kept by one of the judges of the election.

County Canvass. Within six days after the election, the county clerk calls to his aid two other electors of the county and the three proceed to canvass the vote of the county. They make an abstract of the votes cast for each office, as shown by the returns of the judges and clerks of election in the several precincts. The abstract is signed by the three canvassers.

State Canvass. An abstract of the votes cast in each county for state officers, members of congress, and as the choice of the voters for United States senator, is made by the county canvassers, and sent by the county clerk to the secretary of state, addressed to the speaker of the house of representatives, and the canvass of the votes for those officers is made by the legislature at once upon its organization. A like abstract of the votes cast for presidential electors, for judges of the supreme court and of the district court, and for regents of the state univer-

sity, are sent to the secretary of state, and the votes are canvassed by the state board of canvassers, consisting of the governor, secretary of state, auditor of public accounts, treasurer and attorney general. The canvass is made on the third Monday after election, or as soon after that date as the returns are received by the board of canvassers.

Contest. Any elector may contest the announced result of any election for any of the following reasons:

- 1. Malconduct, fraud or corruption on the part of any officer who receives or canvasses the votes.
- 2. When the successful person was ineligible at the time of the election. This includes, having been convicted of a felony, and being in default as a collector of public funds.
- 3. When the successful person has been guilty of bribery in the election.
- 4. When illegal votes were received and counted for the successful person enough to change the result.
- 5. Any error in the canvass that would change the result.
- 6. Any other cause that shows that any other person than the successful one was elected.

The contests are heard in the courts; a detail of the process and proceedings would not be of value here.

# QUESTIONS.

What is required as to the notice? What formalities in opening the polls? State the manner of voting. Why must the voter make out his ticket in secret? What formality in closing the polls? How are the votes canvassed and counted? What is done with the ballots and books after the canvass? How is the county canvass conducted? How the canvass for state officers? When may the result of an election be contested? What changes would you like to have made in the election laws?

## CHAPTER III.—REVENUE.

For What Purpose. Government cannot be administered without money. Men will not work for the public without pay any more than they will for a private person. Besides, as we have seen, governments have a duty in providing places for criminals, so that they cannot escape and commit more crimes. The sick, insane, blind, deaf and dumb, and others, who, for whatever reason, are unable to provide their own means of living, must be cared for by the public or government. To do this, buildings have to be erected, provisions, furniture, fuel, etc., purchased. Houses and furniture, fuel, books, stationery, and other necessities have to be provided for government offices. All this requires money.

From Whom Raised. Experience and theory show that the easiest and most just way to obtain this money is to make each person pay his share of it. This share is determined by first ascertaining the person's ability to pay. As a large share of the benefit of the government is in the protection of property, in affording men the means to obtain and preserve it, it is considered right that property should pay most of the expenses of the government. Those who own the most property should, therefore, pay the largest amount of the money.

What Exempt. 1. It would be a waste of time and an expense for the government to assess and tax its own property. That would be like taking money from one pocket and putting it into the other. Hence, all property belonging to the government in any of its departments is exempt from taxation. This includes school houses and other school property, property of townships, counties and the state. All is used for purposes of government.

- 2. There is certain other property that is used in a sort of governmental way, at least for such purposes as aid the government in the administration of the laws. Property used by agricultural and horticultural societies is not used for profit by private persons, but by societies for public purposes, and is not taxable.
- 3. Colleges and schools under the control of private persons or of church organizations are deemed to be so useful to the state in the education of its citizens, and in increasing intelligence, good morals and right conduct, that property used wholly for such educational purposes does not pay taxes.
- 4. Churches and religious organizations are also deemed valuable aids to government in the formation of good character, and the property of such organizations does not pay taxes.
- 5. Land devoted wholly to the burial of the dead does not pay taxes. The graves of our dead friends are always sacred, and the public conscience shrinks from the apparent sacrilege of compelling us to pay taxes upon them.
- 6. All property devoted to charitable purposes, such as hospitals, homes for the aged, infirm, &c., even if owned and controlled by private persons, is exempt from taxation. The reason for this exemption is found in the fact that these charitable institutions are really doing the work of the government. For, if private enterprise and generosity did not build and maintain these institutions, the state government would be compelled to do so. These hospitals, homes, &c., are, therefore, in one sense of the word, government property and are doing the work of the government, and so ought not to pay taxes.

The Assessment. Before the second Tuesday of March of each year, the county clerk must prepare a book

for each assessor, containing a list of all the lands and lots in the assessor's district, and also blanks for the listing of personal property.

Between the first day of April and the first day of June, the assessor must call upon each owner of property in his district, and obtain from him a list of all his taxable personal property, and of the amount of money he has in any place, whether at interest or not. The assessor puts a valuation upon all of this property and enters the same upon his blanks. If the owner refuses to give a list, the assessor may take testimony and may make such a list as he thinks is just. The assessor also puts a valuation upon all the lands and lots in his district.

("District" means the territory in which the assessor acts.)

Railroads and Telegraph Lines. These companies have their lines of business running through many counties, and have their property unequally distributed along the lines. As all the property contributes about equally to the operation of the lines, it should pay taxes equally in all the counties, townships and precincts through which it passes. In order to a fair and just assessment, the governor, auditor and treasurer form a state board of assessors. The proper officers of railroad companies and telegraph companies are required to report to the state auditor, on or before April 1 of each year, all the information that may be required, in order that the state board may be able to fix the valuation of the property of the companies. This board must make the valuation of the lines on or before May 15, and the auditor reports to the clerk of each county the assessed valuation per mile and the number of miles in his county.

Review of Township. In counties under town-

ship organization, the town board of each township meets on the first Monday of June to review the assessment of the town. Any person who thinks that his property is assessed too high, or that some other property is assessed too low, may apply to that board to have the assessment corrected, and the board may make such correction of the list as shall appear to be just. The assessment of no person can be increased without notice to him. Any person who is not satisfied with the decision of the township board, may appeal to the county board.

Return of the Assessor. On or before the second Monday in June, the assessor must return his assessment list to the county clerk, and must make affidavit to the correctness of the return. The county clerk examines the assessment list as returned, and, if he discovers any errors, he may correct them.

County Review. The county board meets on the first Tuesday after the second Monday in June, as a board of equalization. In counties not under township organization, it has the general powers of the township board, as stated above. It also examines the assessments of the several precincts. If the assessment of one precinct is below the average or below what it should be, it may be raised; if too high, it may be lowered, as a whole, or in detail. In counties under township organization, the county board hears and settles appeals from the town board, and equalizes the assessments of the several townships and cities. On or before the 10th of July, the county clerks report to the state auditor an abstract of personal and real property of the county with its valuation.

The Levy. On the last day of the session of the

that will be needed during the next year for the expenses of the county. The board then makes a levy of taxes for the next year, including the taxes for the county, townships, precinets, school districts and road districts. The village boards and city councils levy the amount of taxes needed in those corporations for the next year. The city councils also make the levy of taxes for the school districts in which they may be situated. These levies by village boards and by city councils are reported to the county clerk so as to be entered upon the books by which the treasurer makes collection of taxes. At the meeting of the state board of equalization on the third Monday of July, that board makes the levy for all state purposes.

Tax List. As soon as the assessments are equalized and taxes levied, the county clerk at once makes out the tax lists. In counties under township organization, the list is for each township or city, and is ready for the city treasurer or town treasurer on or before the first day of October following. In counties not under township organization, the list is for the whole county, and is ready for the county treasurer on or before October 1, following. The tax list contains a list of all the real estate with the name of the owner, if known; the number of acres and value, value of personal property, the school district and road district in which it lies, the total amount of state and county taxes, road tax, school tax, precinct tax, township tax and poll tax.

How Taxes are Collected. In counties not under township organization, no demand for taxes is necessary. It is made the duty of each taxpayer to attend at the county seat and pay to the county treasurer. In

counties under township organization, the town treasurer is required to call once on each tax-payer, if necessary, and demand payment of the taxes.

When Payable. Taxes can be paid on or after November 1, of the year in which they are levied.

Penalty. If the personalty tax is not paid on or before February 1, or the real estate tax by May 1, following the levy, the taxes draw interest at the rate of 10 percent.

Delinquent. When personalty taxes are not paid by February 1, the treasurer may sieze personal property, advertise and sell it for the taxes and the costs of seizure and sale. If realty taxes are not paid by November 1, of the year next after the levy, the county treasurer will offer the land for sale for the taxes. The person who offers to pay the taxes on a tract of land, or lot, for the smallest part of the same, may purchase it. The owner has two years in which to redeem by paying the taxes, penalty and interest, and costs of sale. If the land is not redeemed, the treasurer must give to the purchaser a deed on demand, after the end of the two years.

Tax Deed. Before a purchaser can obtain the deed, he must give notice that he will apply for a deed, to any one living on the land, and also to the person in whose name the land was assessed. If no one is living on the land, and if the one in whose name it was assessed cannot be found in the state, the notice must be printed three times in the county newspaper.

Reports. The town treasurer reports to the county treasurer every thirty days and pays over to that officer all money belonging to the county and state, school district and road district. The county treasurer must report to the state auditor, and pay into the state treasury,

all state funds on the first of November of each year, and at such other times as he may be requested. The county treasurer also pays over to the several school districts and villages, such money as he may collect for them, whenever required. The railroad companies and telegraph companies pay their taxes to the county treasurer, and that officer distributes to each township, school district, city, and village, its share of that tax.

Taxing Peddlers. In addition to the taxes already described, the law levies a tax of thirty dollars a year upon each peddler of watches, clocks, jewelry and patent medicines, and other wares and merchandise. This money may be paid to any county treasurer, and the county clerk in which the money is paid issues the license. This license is good in any part of the state.

Taxes in Cities. The city council of each city, by ordinance, may levy a license-tax upon any occupation or business within the city. To prevent injustice, it is required that all such license taxes shall be uniform as to the classes upon which they are imposed. In order to encourage literary and scientific education, it is also provided that lectures and entertainments of a literary or scientific character shall be exempt from such taxes. It is not often that cities levy these license taxes to the extent allowed by law. Usually they are imposed upon only hacks, carriages used for trip passengers, drays, auctioneers, concerts, theatrical troupes, circuses, billiard tables, bowling alleys, saloons, and other occupations of an irregular, or not strictly legitimate business. The money received from this source goes into the fund of the school district in which the city is situated.

Paying Out Money. After the money enters the treasury it can be taken out only in the way provided by

law. In townships the treasurer pays it out on the order of the township board, signed by the township clerk; in cities the treasurer pays it out on the order of the city council, signed by the mayor and the city clerk; in school districts, it is paid out on the order of the district board, signed by the presiding officer and clerk, or director. The county treasurer pays it out on the order of the county board, signed by the chairman of the board and the county clerk; the state treasurer pays it out on the warrant of the auditor who can give orders only in pursuance of the law, and for claims that the law authorizes.

# QUESTIONS.

Why is revenue needed? From whom is it raised? 'What property does not pay taxes, and why? How, and when is the assessment made? How is railroad and telegraph property assessed? How and by whom is the assessment of property reviewed? Why is a review needed? When are taxes levied, and by whom? What is the tax-list? How are taxes collected? When do taxes become delinquent, and what is the penalty? To whom and when do tax collectors report? What about the taxation of peddlers?—about an occupation tax? How is public money drawn from the public treasury?

# CHAPTER IV.—EDUCATION.

The Reason. As a rule, education improves the voter and the citizen. An ignorant person can hardly understand the significance or the effect of his vote, neither can be fully see the necessity of good conduct in the citizen. It is shown by experience that, by the education of the morals and of the intellect of the citizen, the expenses of the government are greatly reduced, and the security of the persons and property of the other citizens is greatly increased. As the main object of government

is to repress disorder and crime, and to add to the security of the persons and property of all the citizens, we can thus see that the expense of educating the voter and the citizen is really saved in the reduced expense of suppressing crime. This seems to be the real principle on which the government acts in finding any authority to tax the citizens for the education of the children.

School Districts. Each county is divided into as many school districts as the people want, subject to the limitations of law as stated on page 10. The territory included in a city is also a school district. In the country districts, and in the high school districts, the annual meeting is held on the last Monday in June, at the school house. Notices of this meeting are posted up in three public places in the district, at least fifteen days before the meeting.

The Qualifications of a Voter at a school meeting and for school officers, differ from those of voters at political elections. At a school election, every person, male or female, twenty-one years of age, who has resided in the district forty days, and who, in addition, either owns real property in the district, or who owns personal property in the district that has been assessed in his or her name, or who has children of school age residing in the district, may vote as in ordinary elections.

Power of School Meetings. At the annual school meeting, the voters present may select a site for a school house, by a two-thirds vote, and may change the same by a like vote; direct that a site be purchased or leased; direct that a school building be hired, purchased or erected; determine the amount to be expended for the coming year; determine the number of mills on the dollar to be levied for the year, for ordinary expenses and the

number of mills to be levied for a school building, or site, or both; determine the length of time the schools shall be taught during the year; direct the sale of any school property that is no longer needed; give directions in regard to law suits; elect the officers of the district.

Duties of the Officers. In the country districts the board is expected to obey the instructions of the school meeting, hire and pay the teachers, furnish the fuel, and have the care of the buildings and grounds. The board has very little authority aside from following the instructions of the annual meeting. In high school districts, the board grades and classifies the pupils, divides the school into departments, employs teachers, prescribes courses of study and text-books, and enacts proper rules and regulations for the schools. In the districts comprising cities, the board has almost full control of the schools and of the business of the district, but they cannot issue bonds without a vote of the people. The board grades and classifies the pupils, and divides the schools into departments as the interests of the schools demand.

Teachers. No person can be employed as a teacher in any public school of the state, who has not received a certificate from some competent authority, stating that he has the legal qualifications for teaching. These certificates may be issued by the county superintendent or by the state superintendent. In city districts, the board may appoint a committee for the examination of teachers, and the certificate issued by this committee will entitle a person to the right to teach in that district. A diploma of graduation from the state normal school has the effect of a certificate from any other authority.

Teachers' Certificates. There are three grades of county certificates, and a state certificate, which really

make four grades of certificates. For a THED GRADE county certificate, the applicant must pass a satisfactory examination in arithmetic, English composition, English grammar, geography, physiology, reading, spelling and writing. A certificate of this grade is good for six months from its date, and can be used only in the district specially named in it. No person can receive more than three certificates of this grade.

In addition to the branches required for a third grade certificate, an applicant for a SECOND GRADE certificate must pass'a satisfactory examination also in black-board drawing, book-keeping, civil government, history of the United States, and in the theory and practice of teaching. This certificate is good for one year.

For a first grade certificate a person must pass a satisfactory examination in all the branches required for a second grade certificate, and also in algebra, botany, geometry, and physics. A certificate of this grade is good for two years.

These three grades of certificates are granted by the county superintendent, and can be used only within the county of the superintendent granting them. They may be recalled and cancelled by the superintendent for any good cause.

STATE CERTIFICATE. The state superintendent may grant certificates to permanent teachers of high character, broad scholarship and successful experience. For this purpose he may personally examine the applicant or he may appoint a committee to make the examination. This certificate will entitle the holder to teach in any public school of the state, and may run during the life of the holder. To entitle one to this certificate, the applicant must pass a satisfactory examination in the following

branches, in addition to those required for a county first grade certificate: chemistry, English literature, general history, geology, intellectual philosophy, plane trigonometry, rhetoric and zoology.

CITY CERTIFICATES. Certificates issued by the committee of the board, in city districts, need not be of any particular grade, but should cover all the studies that the holder ought to understand in order to teach in the department for which she may be selected.

No Pay. The law forbids the payment of any public money to any teacher who does not have a certificate of one of the classes named above.

The County Superintendent has a general oversight of the schools and teachers of the county. He examines all applicants for teachers' certificates, and grants certificates of the grades to which the examination shows them to be entitled. He keeps a record of all the certificates granted and revoked. He must visit each school in the county at least once in each year, examine carefully into the discipline and mode of instruction, and the progress and proficiency of the pupils, make a record of his observations, counsel with the district boards in regard to the best interests of the schools, and organize teachers' institutes and public lectures for the improvement of the schools and of the teachers. He also examines the reports of district boards, and secures their correctness.

The State Superintendent has charge of the public schools of the state, visits such schools as his time may permit, organizes district institutes, decides disputed points of school law, prescribes forms for all school reports and makes an annual report to the Governor of

the operations of his office for the past year, and of the condition of the schools and school fund of the state.

There are two classes of institutes provided by law, county and district.

A County Institute is held in each county, and is organized under the direction and control of the county superintendent. All the teachers of the county are expected to attend an institute once a year, and a failure to so attend may be good cause for withholding or revoking a certificate. The superintendent provides a conductor, or conducts it himself, and provides such instructors as shall be needed. Instruction is given in the theory and art of teaching, and in such branches as are most needed by the teachers, and of most importance to them and to the schools. To defray the expenses of these county institutes, a fund is provided by law. Each teacher who applies for a certificate pays one dollar to the superintendent as an institute fund. To the sum thus raised the county board is directed to add \$25 a year; and it may annually add \$100, at its discretion.

DISTRICT INSTITUTE. The state superintendent divides the state into such districts, as he may deem best, and appoints a term of the institute for a place in that district, designating the length of the term, of not less than one week, and providing competent instructors. It is the duty of all the county superintendents in the district, and of such teachers of the district as desire, to attend the institute. It is conducted as county institutes are. The institute fund of the county wherein the institute is held defrays the expenses of the district institute.

Compulsory Attendance. The law commands parents and gurdians to send their children, between the ages of eight and fourteen years, to school not less than

twelve weeks each year. They may be excused from doing so, if they can show to the school-board that the labor of the children is needed for the support of the family, that they have been prevented by illness, or that the children are already as proficient in their studies as children of their ages reasonably ought to be. For a failure to obey the command, a fine not less than ten dollars, nor more than fifty dollars, may be imposed. It is considered that the law has had some good moral effect, although the incompleteness of the law is so serious as to render its strict enforcement a matter of grave doubt.

Children in Shops. The law forbids the employment of children under the age of twelve years, in railroad shops, factories, shops or mines more than four months in any one year. In case of such employment beyond the time allowed, both the employer and the parent or guardian consenting to the employment, may be fined not less than ten dollars nor more than fifty dollars.

Free Text Books. The general property of the district and of the state now furnishes all the appliances for educating the children. By a late law, the school boards are directed to purchase the text books, slates, pencils, paper, and all other articles needed in the school room. Education has now become about as free to children as it is possible to be made.

School Funds. The money needed to pay the expenses of the schools comes from three sources: Direct taxation; income from permanent school fund; income from licenses, fines, etc.

Each district may levy a tax of any amount, not to exceed 25 mills ( $2\frac{1}{2}$  cents) on each dollar of valuation of property in the district, for the expenses of the schools.

Ten mills of this amount may be used for the erection, purchase or hire of a school house.

Temporary School Fund. The state levies a tax upon all the property in the state, not to exceed 11 mills on the dollar valuation, for the support of the schools. This is divided, semi-annually, to each county in the state, in proportion to the number of pupils in the counties. This money must be applied wholly to the payment of the wages of teachers. The money that comes to each county is divided by the county superintendent as follows: One fourth of the amount is distributed, in equal shares, to the several school districts of the county; the remaining three fourths is distributed to the districts in proportion to the number of scholars in the district. In addition to the money so raised by taxation, all fines and penalties paid by persons convicted of crimes, all money received for licenses granted to peddlers, saloons, druggists, drays, circuses, auctioneers, &c., is paid into the school fund of the county or district. The money raised by the state by taxation, and that received from fines, penalties, and licenses, constitute the temporary school fund, and is distributed twice a year.

The Permanent School Fund is derived from four different sources: 1. Upon the organization of the state, the United States granted to it, in aid of the common schools, two sections, numbers sixteen and thirty-six, in each township. 2. The United States also granted to the state five per cent. upon the sales of all public lands in the state. 3. When a person, who owns real estate, dies without heirs, his property reverts to the state and is placed into the school fund. 4. When the present constitution was adopted, the state had a small school fund, and it was continued as a part of the permanent fund.

The money derived from the permanent school fund, either as rentals from the lands, or as interest from the invested money, is set over into the temporary fund and distributed according to law, in the manner already shown. The constitution provides that the permanent fund shall be inviolable and that the state shall make good all losses that may occur.

No school shall be entitled to any part of the school fund of the state unless it shall have maintained a school the previous year, as follows: districts with less than thirty-five pupils, not less than three months; districts having pupils in number between thirty-five and one hundred, not less than six months; and districts whose pupils exceed one hundred, nine months.

#### THE STATE UNIVERSITY.

GOVERNMENT. The general government of the state university is vested in a board of six regents. Two are elected every two years and serve six years. The board elects its own presiding officer and clerk.

Powers. The board of regents determines the grades and studies, audits and allows all accounts, elects and fixes salaries of all professors and instructors and governs the institution, subject only to the legislature and the constitution.

Organization. The university is authorized to embrace five departments:

- 1. A college of literature, science and art.
- 2. An industrial college, embracing agriculture, practical science, civil engineering, and the mechanic arts.
  - 3. A college of law.
  - 4. A college of medicine.
  - 5. A college of fine arts.

The first and second departments were opened for students at the beginning. The college of medicine was opened in October, 1883, and discontinued at the close of the academic year, 1887, as the legislature failed to appropriate funds for its support. The college of law was opened September, 1891.

In addition to these colleges, the university conducts a preparatory department, covering the last two years of the work of a high school. This department is confessedly outside of the proper authority of the university. Yet it seems to be called for by the many who desire to attend the university, and who do not reside within the jurisdiction of any high school. It prepares students for the Freshman class of the university.

FACULTY. Each college has a corps of teachers, or professors, called a faculty. These teachers are assigned to such branches of study as the board of regents deem best, and are paid such salary as may be fixed by the board.

CHANCELLOR. Over all these faculties is the chancellor, who is called the chief educator of the university. He is the executive officer of the board of regents. He directs in all the operations and work of education in all the colleges. The board acts very largely in accordance to his recommendations and reports. He is elected by the board of regents, and serves during its pleasure.

Funds. Upon the organization of the state, the United States donated to the state seventy-two sections of land for the use and support of the state university. In 1862, the United States made a grant of 90,000 acres of land to each state for the endowment and support of a college for the benefit of agriculture. These two donations embraced about 136,000 acres, and is the permanent fund for the

maintenance of the state university. The rentals of the lands, and the interest on the proceeds of sale, may be used for current expenses.

#### THE STATE NORMAL SCHOOL.

GOVERNMENT. The normal school is governed by a board of education, consisting of the state superintendent, state treasurer and five other persons who are appointed by the governor, one each year, and who serve five years.

Power. This board has full control of the management and government of the school, selects its principal and other teachers, fixes their salaries and assigns their duties.

Funds. In 1869, the legislature set apart twenty sections of land for the support of the normal school, and the proceeds of sale were to be a permanent fund. This fund is insufficient for the support of the school, and the legislature makes an annual appropriation for its maintenance.

Object and Scope. This school instructs in those branches which teachers of the state are required to understand in order to obtain state certificates. Latin has been taught whenever a class specially desired it. The students are trained also in the art and theory of teaching. The object is to train teachers. Those who graduate in the lowest course receive a certificate that entitles them to teach two years, and those who graduate in the higher course receive a certificate good for three years, anywhere in the state. Any graduate from the higher course who, shall have taught within the state two years with satisfaction is entitled to a diploma good during life.

#### PRIVATE INSTITUTIONS.

The system of education which has been described

above has its foundation in public law, and its support in public approval and public funds. It was organized by the legislature and is supported by the public treasury. But there are other schools and colleges which are organized by private or denominational agencies and are supported by tuition or by endowment funds. Although they are not a part of the school system of the state, they are nevertheless earrying on a good work in education. There are eleven such institutions of education which now rank, or which have laid the foundations for soon ranking, among the list of good colleges, and they are all controlled and supported by associations of churches.

Colleges. Union College at Lincoln, is controlled by the Adventists; the college at Grand Island, about ready to begin work, is supported by the Baptists; the college at Fairfield, and Cotner University, at Lincoln, are supported by Christians; Doane, at Crete, and Gates, at Neligh, are fostered by the Congregationalists; the Wesleyan University, at Lincoln, by the Methodist Episcopals; Bellevne College at Bellevne, now a part of the Omaha University, and Hastings College, at Hastings, by the Presbyterians; Creighton College, at Omaha, by the Roman Catholics; a college at York, by the United Brethren.

ACADEMIES. Of the schools, academies and seminaries, not included in the state system of education, most are feeders for the denominational colleges, and a few are conducted by private enterprise and funds. The following list is not considered complete, as several of the reported schools failed to respond to inquiries for data. The list includes: Academy of the Sacred Heart, Omaha; Blake School, Beatrice; Brownell Hall, Omaha; Central Nebraska Conference Seminary, Central City;

Douglas Seminary, Douglas; Franklin Academy, Franklin; Hiawatha Academy, Hiawatha; Orleans College, Orleans; Pawnee City Academy, Pawnee City; St. Francis Parochial School, Falls City; Trinity Hall, Lincoln; Weeping Water Academy, Weeping Water. All these embrace the studies of the high school grade in their curricula, and are fitting students for college.

Normals.—There are also four private normal schools in the state, supplying in good degree a need of which the state legislature seems not to take heed. These, like the state normal, embrace academic work as well as training in the science of pedagogy. These are the Fremont Normal College, the Wayne Normal School, the Lincoln Normal University, and the Western Normal College, at Lincoln.

## QUESTIONS.

Give a reason for a public school system. When are school meetings held? Who may vote at school elections? What may the voters do at school meetings? What officers have school districts? State their duties. How many classes of teachers' certificates are there? What is requisite for a third grade certificate? for a second grade certificate? for a first-class certificate? for a state certificate? Who issues teachers' certificate? Why should not a teacher without a certificate draw pay? What is the object of a teachers' certificate? State the duties of a county superintendent; of the state superintendent. How many classes of teachers' institutes are there? What are such institutes for? What argument have you in support of compulsory attendance at school? What in opposition? What reason for prohibiting the employment of children in shops, &c.? What is the law in regard to free textbooks? What is the argument in favor of free text-books? What argument in opposition? What are the several sources of the school funds? What constitutes the temporary school fund? What the permanent school fund? What schools cannot receive state funds? How is the state university governed? how organized? From what source does the university derive its funds? Explain the government of the state normal school. How is it maintained? What is its special line of work?

# CHAPTER V.—PUBLIC INSTITUTIONS.

Their Purpose. We have seen that each county must care for the poor within its own borders. A republican government recognizes that, while each individual owes a duty to the whole people to preserve the state organization, so the whole people owe to each individual of the state the duty of caring for him when he is unable to care for himself. The paupers who require ordinary care, only, can well be provided for by each county.

But, there are other classes of unfortunates who require, not only more care, but more skillful treatment and more expensive buildings for such treatment. The state finds it more economical to take these classes of unfortunates under its own care, and to bring them all into hospitals by themselves. For this purpose, the state provides hospitals, with all the needed appliances of buildings and attendants, for the insane, blind, deaf and dumb and the friendless.

Insane. There are three institutions for the care and treatment of the insane. Two are called hospitals, one of which is located at Lincoln, and one at Norfolk, and an asylum for the incurable insane, at Hastings. These are under the general control of the state board of public lands and buildings. The chief executive officer of each institution is a superintendent, and he has as many assistants as he may need, all appointed by the governor. The superintendents and assistants must be physicians of ac-

knowledged skill and ability in their profession. The superintendent has entire charge and control of the medical, moral and dietic treatment of the patients. Each institution has a steward, matron, and such other aids and helps as are needed, appointed by the superintendent, and for whose conduct he is responsible.

In each county, there is a board of commissioners of insanity, consisting of three persons, of whom the clerk of the district court is one; the judge of the district court appoints the other two members, of which one must be a physician and one an attorney, to serve two years. The friends of a person believed to be insane make application to the commissioners of insanity for his admission to the hospital. At once, the commissioners take testimony concerning the matter. If they find that the person named is insane, he is delivered to the sheriff of the county, with a proper warrant, and is conveyed to the hospital. A person confined in this institution has the right to the writ of habeās corpus to test if he be really insane. Each county bears the expense of the treatment of its own insane.

The Blind. The Institute for the Blind is located at Nebraska City; has the same general government as the hospitals and asylum for the insane; but the governor appoints the principal, and the board of public lands and buildings appoints the other teachers and assistants. This is really a school for the education of those who cannot see, although efforts are constantly made to repair the sight of those who are deemed not incurable. All blind persons of the state, of suitable age and capacity to receive instruction, are entitled to free admission. Each county superintendent is required to report annually to the principal of this school, the name, age, residence

and postoffice address of each blind person in his county. The state pays all the expenses of the education and maintenance of the inmates of the school, except that the inmates, their friends or the counties of which they are resident, must bear the expense of their clothing.

Deaf and Dumb. The Asylum for the Deaf and Dumb is situated at Omaha and has the same government as the institutions heretofore described. The inmates receive all the instruction in mental, physical and moral culture possible to that class. All deaf and dumb persons, resident of the state, of suitable age and capacity to receive instruction, are admitted to the enjoyment of all its benefits. The state pays all the expenses of education and maintenance.

The Friendless. The Home for the Friendless has its headquarters at Lincoln. The property part of it is under the control of the state board of public lands and buildings. The operations of the home are directed by the society of the home for the friendless. This society is a voluntary organization and is supported by offerings of the charitable. The state appropriated the money for the erection of the building. This home receives and cares for, to the extent of its means, all the friendless and needy of the state who do not come within the jurisdiction of any other institution. The society is composed entirely of women, and the superintendent of the home is a woman, and is appointed by the society of which she is a member.

The Industrial School is at Kearney, and is governed by the state board of public lands and buildings, which appoints the superintendent, steward and other employes. The superintendent has charge of all the property and of the operations of the school.

When a boy under the age of sixteen is found guilty of a crime, other than murder or manslaughter, the district court is authorized to enter an order sending the offender to the reform school. With the offender and the order, the judge sends a statement of the nature of the offense committed. Inmates of this institution remain until arrival at age or until discharged by legal authority. A discharge by legal authority or by arrival at age is a full and final discharge from the penalties of the crime. The state pays all the expenses of admission, maintenance, instruction and release.

Girls Industrial School. When the industrial school at Kearney was instituted it received girls as well as boys. The legislature of 1891 instituted the girls' industrial school at Genoa, which is governed and conducted in a manner similar to the school at Kearney. It receives only girls, on the same terms and in the same manner that boys are received at Kearney.

The Penitentiary is not wholly a punitive institution, although its inmates come to it as a punishment for violation of law. The name given to it, penitentiary, indicates that it is intended as a reformatory; a place of penitence. Many moral philosophers hold that criminal intent is a disease, and that all criminals are entitled to our sympathy and good offices. The acceptance of a shade of this idea will be found in all our criminal laws. Hence, a consideration of the penitentiary comes fitly under the head of reformatory and charitable institutions.

This institution is located near to the city of Lincoln and is governed by the state board of public lands and buildings. The immediate government is in the hands of a warden and deputy warden, who are appointed by the governor and senate to serve two years.

All persons convicted of a felony are sentenced to confinement in this institution, many of them are also sentenced to hard labor. For the purposes of labor, shops, tools and other appliances and machinery are provided, so that all the common mechanical trades can be carried on by convicts. The labor of the convicts is leased to a contractor who puts this labor to such uses as he chooses. He may sub-lease it, or a part of it, to others, or use it himself. The lessee receives from the state a certain amount per head for the cost of keeping the prisoners, and he assumes to pay all the expenses of feeding, clothing, guarding and caring for them, while he receives the returns of their labor. When prisoners enter the penitentiary, they must have their hair and whiskers cut close, and they are dressed in clothing of white and black stripes. This is done as one of the precautions against their escape.

Feeble Minded Youth. The Nebraska Institute for Feeble Minded Yonth is located at Beatrice, and is controlled by the board of public lands and buildings. The board appoints the superintendent, who must be a physician. Upon the recommendation of the superintendent, the board appoints a matron and other teachers and employes. The institute is to provide shelter and protection, instruction and improvement to the feeble minded youths of the state. In addition to the mental and moral care which inmates of other institutions receive, the immates of this are trained in such agricultural and mechanical employments as they may be able to bear, so as to fit them for good citizenship. The parents or gnardians of the inmates pay the expenses of clothing, if they are able; if not able, the expense is borne by the county in which the parents have their residence.

The Nebraska Industrial Home is at Milford, and provides employment and means of support for women and girls. It is under the supervision of the trustees of the "Woman's Associate Charities of the State of Nebraska," but the board of public lands and buildings has control of the property and may establish rules and regulations for the government of the Home.

Soldiers' Home. The Nebraska Soldiers' and Sailors' Home is established at Grand Island. It receives honorably discharged soldiers, sailors and marines of the war of the rebellion, and nurses who served in army, navy or hospital during that war; the wives and children of such soldiers, sailors, marines or nurses, if they are unable, by reason of service, old age, or other cause, to support themselves, if they have been residents of the state for two years next preceeding their admission. A large central building is used as a sort of hospital for those who are unable to work. For those who are able to do some manual labor, cottages and tracts of land are provided, and they work under the direction of the commandant of the home. Those who are unable to labor are treated somewhat like those in ordinary hospitals; medical aid is furnished free to all needing it.

In a general way, the home is governed by the board of public land and buildings. The governor appoints the commandant, who must be an ex-union-soldier of the war of the rebellion, and who has immediate control and government of the home. The governor appoints a visiting and examining board. This board must consist of three honorably discharged volunteer soldiers of the United States and two members of the Woman's Relief Corps of the state. This board visits the home once in every six months, and examines into the conduct and

management of the same, and reports the result of its visitation and examination to the board of public lands and buildings. These two boards, acting together, adopt rules and regulations for the government of the home, and prescribe the rules by which applicants may be admitted.

# QUESTIONS.

What classes of people does the state care for in public institutions? Why should the state do that? State location and government of the institutions for the insane. Describe the methods employed in sending insane persons to asylums. State location and government of the asylum for the blind. Who may be admitted to it? State location and government for the deaf and dumb. State location and government of the home for the friendless. State the government of the Industrial Schools at Kearney and Genoa. Who may be admitted to them and how? What kind of an institution is the penitentiary? State its location and government. Who are admitted, and how? What is the object of the institution for feeble minded youth? How is this object attained? State location and government of the industrial home. State location and government of the soldiers' home. What are the qualifications for admittance?

# CHAPTER VI.—MISCELLANEOUS MATTERS.

The State Historical Society is a voluntary association, formed for the purpose of collecting and preserving such facts and other historical data as may be serviceable in securing a full history of the state. The officers consist of a president, two vice-presidents, a secretary and a treasurer. It has an annual meeting for hearing such reports and addresses as may be made to it, embracing the subject of its existence. Reports are annually made to the governor, embracing all its transactions and expenditures. The reports, addresses and papers of the

society are published at the expense of the state, and distributed as other state documents are distributed. In 1883, the legislature, by special act, reorganized and adopted the society as a state institution, and appropriated the sum of five hundred dollars for its use and benefit. The society has its headquarters at Lincoln. Members are admitted by an affirmative vote of the society and on the payment of a fee of two dollars. Members are entitled to copies of its publications free.

THE STATE AGRICULTURAL SOCIETY is composed of the successors to the original twenty-seven incorporators of 1858, together with the president of each county society, or a delegate from each county society. The officers are elected annually, and consist of a president, vice presidents, secretary, treasurer, and a board of directors. The title of the society is "The State Board of Agriculture." The board reports to the governor, annually, the proceedings of the society, with a bill of items showing the money received and paid out, giving a general view of the condition of agriculture throughout the state, and recommending such measures as it may deem for the best interest of the agricultural industry of the state. The reports of the board are printed annually at the expense of the state, and are distributed to the society, to county societies, and to officers of the state and county. The state appropriates two thousand dollars, annually, for awards of premiums in the various branches of agriculture. This board has control of the state fair, which it holds each year. It may locate the fair at one place for a period of five years. The annual meeting is held at Lincoln on the third Tuesday of January.

THE STATE HORTICULTURAL SOCIETY meets annual-

ly at Lineoln, on the third Wednesday of January. Its officers are elected at that meeting, and they consist of a president, vice president, secretary, treasurer and board of directors. The society encourages the organization of district societies and county societies, giving them representation in its deliberations, and it aims to advance the interest of fruits and forests in the state. The secretary makes an annual report to the governor, with an itemized statement of the money received and expended, a view of the condition of horticulture throughout the state, and such recommendations as he may deem useful. The report is printed at the expense of the state, and is distributed to the society and to the state and county officers. The state appropriates one thousand dollars a year for payment of premiums awarded in the various branches of horticulture.

COUNTY AGRICULTURAL SOCIETIES. A county society for the improvement of agriculture and horticulture within that county may be formed by twenty or more residents of a county by the adoption of a constitution and by-laws. County fairs are annually held by these societies and premiums awarded for the improvement of soil, crop, tillage, manure, implements, stock, articles of domestic industry, and for such other articles, productions and improvements, as the society shall deem proper, and it may perform all such acts as it may deem best calculated to promote the agricultural and manufacturing interests of the county and state. The society may have such officers as its constitution may provide. These are usually a president, vice president, secretary, treasurer and a board of directors, and the officers are usually elected annually. The society must annually publish a list of its award of premiums, and an abstract of the treasurer's account. It

must also make an annual report to the state board upon the condition of agriculture in the county, and such other matters as it deems worthy to be communicated. Each society may own real estate, not exceeding one hundred and sixty acres of land, for a fair ground. The county board is authorized to appropriate to the use and benefit of the county society an amount not exceeding one hundred dollars for each thousand inhabitants of the county, and such money must be used for fitting up the fair grounds, solely. Such appropriation cannot exceed one thousand dollars in any county. A full report of the expenditure of the money shall be made to the county board. Whenever a duly organized county society shall have in its treasury the sum of fifty dollars, the county clerk is directed to draw a warrant annually on the county treasurer in favor of such society for the sum of three cents for each. inhabitant of said county, on the basis of five inhabitants for each vote cast in the county for member of congress, at the last election for said officers, and it is made the duty of the treasurer to pay the warrant.

#### PUBLIC LIBRARIES

The people recognize the aid which good books furnish to our advancing civilization. Our steady growth in culture, intelligence and mental power depends largely upon books. These are especially valuable for purposes of study when they are collected into libraries, so that the same books may be accessible to many people. The legislature of Nebraska has provided for libraries in the state, not only in aid of culture and intelligence, but also in aid of education and of historic and scientific research.

THE STATE LIBRARY is in the capitol building at Lincoln, and the clerk of the supreme court is its librarian.

It consists of two divisions; the miscellaneous division and the law division. The miscellaneous division contains works of general literature and science, history, biography, travels, poetry &c. The law division contains all the books of reports of courts, and other law books. The librarian makes annual reports to the governor of the condition of the books.

LIBRARIES IN CITIES. The council of any incorporated town or city may, by ordinance, establish a public library and reading room. They elect nine directors who must be citizens. Three are elected every year, in June, to serve three years. These directors have full control of the library and its property, make rules and regulations for its government, appoint agents to attend to it, and make all expenditures of money in its behalf. The council may levy a tax, not exceeding one mill on the dollar, for its support and maintenance. The board may purchase grounds, erect buildings, or lease rooms. It reports annually to the council the condition of the books and property, and the receipts and expenditures of money. The library and reading room are free to all citizens of the city or town. Parties residing outside may use the library and reading room on payment of a reasonable fee.

School Libraries. Most of the city school districts, and a large proportion of smaller districts, are collecting libraries for the use of the pupils of the schools. A well selected library, of books suited to the years and attainments of the pupils, is worth more than a professor of literature. It creates a taste for books, even if none existed before. If the teacher in charge of the library knows how to lead the pupils, the most vicious taste can be refined. There is no expressed authority in the law for the maintenance of a school library, but the authority is

believed to exist in the general powers of the board.

The State University, the State Normal School, and all the universities, colleges, academies and private schools of the state have libraries, of fair extent, for the use of their students.

#### ROADS.

The law reserves all section lines for use as roads, and they may be opened and used whenever they are needed. There are two methods by which roads that are not on section lines may be opened. If all the persons who own the land which the proposed road will cross are willing to give the land for the road, they give their written consent that the road be opened, and the county board accordingly makes the order opening the road.

How Opener. If the owners of the land which the proposed road will cross are not willing to give their written consent for the road, the persons who desire the road present to the county board a petition, signed by ten voters who reside within five miles of the proposed road, particularly describing the road wanted, and asking its location. The county clerk appoints a commission to examine the proposed route, and to report if a road is needed in that place or near it. If the commission reports in favor of the road, or one that will answer the purpose of the one asked for, the county clerk sets a day, not less than sixty days thereafter, and publishes a notice for all objections to be filed in his office. If there are no objections to the road, and no claims for damages filed, the board will establish the road at its next session. If there are objections or claims for damages, the clerk appoints three suitable and disinterested electors as appraisers to examine and to assess the damages.

At a subsequent meeting of the board the damages may be increased or diminished, or left as awarded by the appraisers. The petitioners for the road pay all the damages and costs of this proceeding. If they consider the damages awarded too high, they may appeal to the district court. If the person damaged by the location of the road regards the award too small, he may appeal in like manner. When roads are located they are platted and recorded in the office of the county clerk.

How Worker. For the purpose of working roads, the county board divides each precinct or township into as many road districts as it deems best. In each district an overseer of roads is elected at each general election. and he has charge of the roads in his district, under the general direction of the county board, and he is bound to keep the roads in as good condition as the funds will permit. All male inhabitants between the ages of twentyone and fifty, except paupers, idiots and lunatics and the active militia, are assessed three dollars a year as a road tax. Three fourths of this tax may be paid in labor at \$1.50 a day, and the other part must be paid in cash, in order to buy scrapers and materials for bridges, culverts, etc. The overseer of roads makes settlement with the county board at the annual session in January, and may be called to report at any other time. Public roads are free to all people, on foot, on horseback, or in vehicles.

# THE STATE MILITIA.

The American people have learned, partly by experience, and partly by historic study, that a well trained militia is a better wall of defense than a large standing army. The United States has a standing army so small as to excite the wonder of Europeans. The army com-

prises not far from twenty-five thousand men. In addition, most of the states have a military organization intended to train their citizens in the use of arms and in military movements. In Nebraska, as a reference to the constitution will show, the legislature determines what persons are liable to military duty and provides for the organization and discipline of the militia.

Who are Liable. Every able-bodied male citizen, between the ages of eighteen and forty-five years; except (1) officers of the United States, (2) state officers and county officers of the state, (3) all persons who are members of any religious society or organization by whose creed, or discipline, the bearing of arms is forbidden. In order to obtain such exemption the person must present to the enrolling officer proof that he is entitled to it.

Active Militia. The active militia is called the "Nebraska National Guards," and consists of not more than two thousand men, and is formed by voluntary enlistment for three years. In case military forces are needed by the state, the active militia will be the first called out. If more than the active militia are needed, the governor may order a draft. When a draft is ordered, the number of men needed is apportioned among the several townships and precincts of the state. The government is always ready for a draft, because the law directs the assessor, when he makes his annual assessment of property, to obtain the name and residence of all persons liable to military service, and to report the same.

How DIVIDED. The Nebraska National Guards consist of two regiments of infantry, a battery of artillery and some cavalry, all constituting one brigade. A company of infantry contains not more than forty privates, a company of cavalry not more than seventy-eight privates,

and a battery of artillery not more than one hundred and twenty-two privates.

Officers. Each company has one captain, two lieutenants, and sergeauts, corporals and musicians, and other subordinates. Each regiment is officered by one colonel, lieutenant-colonel, major, surgeon, chaplain, adjutant, quartermaster, sergeaut-major, quartermaster sergeaut, hospital steward, chief musician, and two principal musicians. Each regiment may also have a band, containing not more than twenty members, nor less than twelve members.

The whole militia of the state is under the immediate command of a brigadier-general, appointed by the governor. The staff of the brigadier-general is appointed by the governor, upon the recommendation of the brigadier-general, and comprises an assistant adjutant-general, a surgeon, a quartermaster, a commissary of subsistence, and two aids-de-camp. All officers, except those of the staffs, are elected by the officers and men of their respective commands, and are commissioned by the governor upon his approval of such election.

The governor is made commander-in-chief of all the military forces of the state. As such commander-in-chief, he has a staff of officers embracing an adjutant general, a quartermaster general, a commissary general, a surgeon, an inspector general and a judge advocate general.

Exemptions. The officers and men of the active militia are exempt from working on roads or streets, from the payment of poll tax, and from the duty of sitting upon any grand or petit jury.

DRILLS. Each company and battery must meet for drill one day in each of the months, April, May, June, July and August; the time and place to be set by the

commander. The whole brigade holds an encampment for instruction and practice, not less than five days nor more than ten days, in each year, between August 10 and September 20, at such time and place as the governor may designate.

PAY. When called into the active service of the state, and when in attendance at special drills and at the annual encampment for instruction, the officers and men receive pay for the time so engaged, together with food and lodging. A service of three years in the active militia entitles a person to an honorable discharge, which probably carries with it an exemption from further calls to such service except in time of war.

Volunteer Companies. The law forbids any body of men, other than the regularly organized volunteer militia of the state, and the regular troops of the United States, to associate as a military company for drill or parade, without the permission of the governor. It is provided, however, that in educational institutions, where military science is taught the students, with the consent of the governor, may parade in public with arms under the superintendence of their instructors, and may take part in any regimental or brigade encampment. While in such encampment, they must be governed by the laws governing the militia of the state therein.

## VACANCIES IN OFFICE.

A vacancy may occur in any office by the failure of the person elected, or appointed, to qualify and serve; by resignation, by conviction of a felony, by removal from the district or state, by impeachment and removal, by becoming of unsound mind, and by death.

It is seldom that a person refuses to serve in the office to which he has been elected, or appointed. Very few persons are presented as candidates without their consent. In the small offices, such as township officers, vacancies sometimes occur in this way, as the voters frequently have a difficulty in finding persons well qualified to fill them, and so they often elect persons who will not consent to serve. For the offices that pay salaries or large fees, the number who seek them exceeds the number that can be elected.

#### OFFICIAL OATHS.

Before taking any office, the person elected or appointed thereto must take oath to support the constitution of the United States and of this state, and to perform the duties of his office to the best of his ability. In addition to this, the constitution requires that the officers of the executive and judicial departments, and the members of the legislature, shall take oath that, at the election at which they were chosen, they did not improperly influence the vote of any elector, and that they have not accepted, and will not accept or receive, either directly or indirectly, any money or other valuable thing, from any person or corporation, or any promise of office, for any official act or influence. A refusal to take this oath forfeits the office.

## OFFICIAL BONDS.

All officers of the state, district, county, city, village, township, and precinct, who are anthorized to handle the public money, or to handle money in process of judicial collection, are required to give bonds for the safety of the money. The bonds of the officers of the executive department of the state are in the sum of fifty thousand

dollars. Treasurers' bonds are usually fixed, as near as may be, at twice the amount of money that will probably be in their hands at any one time. The bonds of other officers are fixed at such sums as will insure the safe and honest keeping of the money. The bonds are signed by friends of the officers, who have faith in their honesty.

# QUESTIONS.

State organization of the state historical society. What is its purpose? Is that a praiseworthy purpose? Why? What is the organization and purpose of the state agricultural society—of the state horticultural society—of the county agricultural societies. How far are such societies beneficial to the people? Why should the public endow and organize libraries? How are libraries in cities controlled? What advantage to a school is a library? How are roads opened? How worked? What is vicious in the present system of opening and working roads? What is the object of a militia organization? Who are liable to militia service? Who constitute the active militia? How constituted? What officers have companies? regiments?—brigades? What staff officers has the governor, as commander-in-chief? What are the duties of each of these staff officers? From what are the active militia exempt? Why should they be so exempt? When do the active militia drill? What is the law in regard to volunteer companies? How may vacancies in office occur? What is the substance of the oath which officers must take? What is the advantage to the state in requiring such oath? What is said about official bonds?

# CONSTITUTION OF NEBRASKA.

#### PREAMBLE.

We, the people, grateful to Almighty God for our freedom, do ordain and establish the following declaration of rights and frame of government, as the constitution of the State of Nebraska.

The object of a preamble is to make some statement in regard to what follows, as introductory to that which follows. A constitution of a free people fitly states its purpose and the source of its authority. The constitution of the State of Nebraska states that "the people" have ordained and established it. The people elected the legislature; the legislature passed a law asking the people if they desired a new constitution; the people elected the members of the constitutional convention, and then voted to adopt the constitution formed by that convention. This makes this instrument the work of the people.

## ARTICLE I.—BILL OF RIGHTS.

SECTION 1. All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, and the pursuit of happiness. To secure these rights, and the protection of property, governments are instituted among people, deriving their just powers from the consent of the governed.

This sentiment is reproduced from the Declaration of Independence, and recognizes the doctrine that there is no rightful government that is not organized by those who are to be governed. 'Inherent and inalienable rights' means those rights that we received at our birth, and that belong to us as human beings, and that we cannot sell or give away—cannot deprive ourselves of. 'The pursuit of happiness' includes the right to have our property protected. The rights to 'life, liberty, and

the pursuit of happiness" may not include all the rights that are inherent, inalienable, and that government is instituted to secure. These are "among" them, only.

SEC. 2. There shall be neither slavery nor involuntary servitude, in this state otherwise than for punishment of crime whereof the party shall have been duly convicted.

This follows from the previous declaration that all men are created free and that governments are instituted to protect the liberty of their citizens. When a person commits such a crime as shows him to be dangerous to the community, the community has a right to protect itself by depriving him of his liberty.

Sec. 3. No person shall be deprived of life, liberty or property, without due process of law.

Whether or not a person has committed a crime that justifies the community in depriving him of his liberty can be ascertained only after a trial, and this trial must proceed under the forms provided by the laws. A person has the right to know, always, in what manner, and under what forms, the community may deprive him of any right.

SEC. 4. All persons have a natural and indefeasable right to worship Almighty God according to the dictates of their own consciences. No person shall be compelled to attend, erect or support any place of worship against his consent, and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious tests shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

No one has a right to regulate our consciences or our worship for us. The right of each one to obey his own conscience in the matter of worship cannot be defeated by any law. This applies to his right to attend such church

as he chooses, or not to attend; and to help in the erection and support of any church or religious organization. That a person belongs to any particular church, or does not belong to any, cannot be urged as a qualification or disqualification for an office, nor deny to any suitor in court the right to call him as a witness. This does not say, nor does it mean, that the state, or the law, or the court, only, shall not apply the "religious test;" it means that no one has a right to apply that test. If a voter votes for a candidate solely because of that candidate's religious belief, that voter violates the letter and spirit of this section of the bill of rights. As all the people have the right to their religious belief, it is right that the law shall not give any preference to any religious body or organization, but that it should fully protect each body in the enjoyment of its own organization and mode of worship. This clause also voices the sentiment of the people of the state on the subject of education. It commands the legislature to pass laws for the encouragement of schools and other means of education.

SEC. 5. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense.

This is a modification of the law of libel, and allows persons to tell the truth about others, if they do it for the public good. Under the old law of libel, the more truthful the statement the greater the libel.

SEC. 6. The right of trial by jury shall remain inviolate but the legislature may authorize trial by a jury of a less number than twelve men, in courts inferior to the district court.

The right of trial by a jury dates from very early times in England, and is recognized by the common law to mean by a jury of twelve voters. The state cannot reduce this number, except in courts inferior to the district court, such as county courts, justice courts, and police courts.

SEC. 7. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

The right to be secure in person and property from unreasonable searches and seizures, seems to be a part of what the Declaration of Independence calls the right to the "pursuit of happiness." Some of my readers have read the often-quoted remark of Shylock:

"You take my life

When you do take the means whereby I live."

-Merchant of Venice, Act. IV, Scene 1.

So, if you take away the means whereby we enjoy ourselves, you thereby take away the enjoyment.

By the rules of the common law, which this section of the bill of rights seems to re-enact and to emphasize, no officer of the government can search a person's house, or seize his property, papers, or himself, until a complaint has been filed in a court showing some lawful reason for making the search or seizure, and the person making the complaint must swear that the facts stated in it are true. Then a warrant may be issued for the search, or for the seizure. Both the complaint and the warrant must minutely describe the house, papers, goods and persons to be searched or seized.

SEC. 8. The privilege of the writ of habeas corpus shall not be suspended, unless, in case of rebellion or invasion, the public safety requires it, and then only in such manner as shall be prescribed by law.

When a person thinks that he is illegally imprisoned, he makes application to a court, stating the facts to show

the illegality. The court will issue an order to an officer, sheriff, or constable, to bring the person before it for inquiry as to the cause of the imprisonment. In early times, the orders were in Latin. This writ began, habeus corpus, "you will have the body" of the person, naming him. The right to use this writ is one of the safeguards of a free citizen. There does not seem to be any reason why it should ever be suspended. The law might provide that offenders, who interfere with the execution of military officers or troops, may be arrested by such officers or troops, and imprisoned until a trial can be had. When the right to the writ of habeas corpus was wrested from the King of England, it was too valuable to be left at the arbitrary disposal of the king, or parliament. Although the same dangers cannot threaten the people of a free republic that then threatened the people of England, yet the framers of our constitution wisely refused to place the suspension of the right to this writ under the arbitrary disposal of a governor, or of a legislature which might be elected in times of excitement and of intense passion. Therefore the bill of rights directs that rules may be established by the legislature in accordance to which the right to the writ may be suspended.

SEC. 9. All persons shall be bailable by sufficient sureties, except for treason and murder where the proof is evident or the presumption great. Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted.

This recognizes the theory that all persons are innocent until they are proven to be guilty. The community will be safe if the accused persons are placed under bonds that are large enough to keep them from running away, except in cases where there is but little doubt of guilt. "Excessive bail" means that the amount of the bond is higher than the amount that will prevent the escape of the accus-

ed. "Excessive fines, and cruel and unusual punishment" are such fines and punishments as have not heretofore been inflicted by the common law.

SEC. 10. No person shall be held to answer for a criminal offense, except in cases in which the punishment is by fine or imprisonment otherwise than in the penitentiary, in case of impeachment, and in cases arising in the army and navy or in the militia, when in actual service in time of war, or public danger, unless on a presentment or indictment of a grand jury; *Provided*, that the legislature may, by law, provide for holding persons to answer for criminal offenses on information of a public prosecutor; and may, by law, abolish, limit, change, amend, or otherwise regulate the grand jury system.

In order that prosecutions may not be entered upon lightly, without a fair probability that the crime charged has actually been committed and that the person who is charged with its commission is guilty, a grand jury of sixteen men must first hear all the evidence for the state. If twelve of that jury think that that evidence is enough to show that the accused is guilty, they say so, and the foreman signs the indictment or charge. Until this is done, no one charged with a felony can be tried. A felony is a crime that will send one to the penitentiary or to be hanged. There has been a great deal of discussion about the grand jury system, and many wise men doubt its value. The legislature of 1885 abolished the grand jury in ordinary cases, but authorized the judge of the district court to order one in his discretion.

SEC. 11. In all criminal prosecutions, the accused shall have the right to appear and defend in person or by counsel, to demand the nature and cause of accusation, and to have a copy thereof, to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

Under the practice of European governments, the accused had none of these rights. He had to make his defense in the dark. The dictates of humanity have

made this departure from that practice, giving to every accused a right to have a lawyer to help in his defense, to have a copy of the paper that makes charges against him, and to be present to see the witnesses when they testify against him; to have orders of the court that shall compel the attendance of witnesses for himself; to have a speedy trial, a trial by a jury that is not biased or prejudiced, and to have it in the county where the crime was committed or said to have been committed.

SEC. 12. No person shall be compelled, in any criminal case, to give evidence against himself, or be twice put in jeopardy for the same offense.

It would be inhuman to compel an accused person to furnish the evidence to convict himself. A prisoner is allowed to testify if he wishes to do so, but he cannot be compelled. In some European countries, it has been customary, when a prisoner was acquitted, to put him on trial again, in another place, and before another court, for the same offense. This is not right and in this state, when a prisoner has been acquitted, declared innocent by a court or jury, he cannot again be put on trial for the same offense.

SEC. 13. All courts shall be open, and every person, for any injury done him in his lands, goods, person, or reputation, shall have a remedy by due course of law, and justice administered without denial or delay.

This is a right that is included in the right to life, liberty and the pursuit of happiness. It prohibits the delays and denials of justice so common in monarchial countries.

SEC. 14. Treason against the state shall consist only in levying war against the state, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

It is safest that the crime of treason should be defined by the constitution so that no legislature can define it. or change the definition, to suit its prejudices. Levying war against the state and giving aid and comfort to the enemies of the state, fully define the crime. It makes no difference how this aid and comfort are given, whether by gifts or loans of money, munitions of war, means of subsistence, or by words, written or spoken, or by signs that convey ideas. Any act of mind or body that will aid, encourage or comfort an enemy of the state of As treason is the most odious and Nebraska is treason. the highest crime known to society, and as persons accused of that crime can hardly expect the sympathy that other accused persons usually find, such persons need all the safeguards for a fair trial that can be given consistently with the safety of the state. One of these safeguards is the provision that two witnesses to the same overt act of treason are needed in order to convict, if the accused does not confess.

SEC. 15. All penalties shall be in proportion to the nature of the offense, and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the state for any offense committed within the state.

The intention of this section is that all penalties shall be proportioned to the magnitude of the offense. Petit larceny and grand larceny are of the same nature; so are simple assault and an assault with intent to commit a felony; but penalties are proportioned, in larceny, with reference to the amount of property stolen, and with reference to the intent, in assault. It would be monstrous to inflict the same punishment for an assault as for murder, or for the theft of a cent, as for the theft of a million dollars. In olden European times, a conviction for some crimes resulted in changing the rule of inheritance, so that the accused could neither receive nor convey property by inheritance, and in a forfeiture of the

estates of the accused. The hardship and barbarism of this system are provided against in this section. A fine may be inflicted of a certain sum, but there can be no confiscation of estates, and no relative of an accused shares in the conviction unless personally tried and convicted.

SEC. 16. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immumities, shall be passed.

A "bill of attainder" is a special law that convicts persons, named in it, of treason or other political crimes, and sentences them to death or to forfeiture of estates and corruption of blood (see section 15). Bills of attainder were not uncommon during the troublous times of English history, and even down to the time of the Revolution. The accused had little, if any, opportunity for making a defense. The injustice of this system of trial for crimes was so notorious that the fathers of the republic effectually provided against its practice in this country. An ex post fucto law, (law made "after the fact") cannot be passed. A law that increases a penalty of a crime cannot be made to apply to a crime that was committed before the passage of the law; a law defining a crime and making a penalty cannot apply to an act committed before the law was made. All can see that that rule of the bill of rights is a very just one. After a contract has been made, it is not just for the legislature to make any law that will set aside that contract or prevent its enforcement by either party. Thus, statutes limiting the time when actions may be brought to enforce contracts, cannot apply to contracts entered into before the law was passed. The remainder of the section means that the legislature cannot grant to railroads or to other corporations, any privileges that cannot be repealed or recalled at any time.

SEC. 17. The military shall be in strict subordination to the civil power.

The government of the state is exclusively a civil one, and the military organization is the creature of the civil authorities. The people have no rights under a military government; hence, in a government of the people, the military must be subject to the civil laws.

SEC. 18. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

This is another provision for the benefit and protection of the citizen, and is a departure from the laws of many European nations.

SEC. 19. The right of the people peaceably to assemble to consult for the common good, and to petition the government or any department thereof, shall never be abridged.

This section necessarily follows from the right of the people to govern themselves, and is a righteous guaranty of liberty.

SEC. 20. No person shall be imprisoned for debt in any civil action on mesne or final process, unless in cases of fraud.

Nearly all the states of the Union have abolished and prohibited imprisonment for debt, once so common, and this state does wisely to prohibit it altogether. *Mesne* means "in between;" that is, any process before the final process, which is execution. As a fraud is accounted to be a crime, the imprisonment allowed in this section is really an imprisonment for a crime.

Sec. 21. The property of no person shall be taken or damaged for public use without just compensation therefor.

All governments have an inherent right to take and use private property for public purposes. This section restrains that right to the extent that the public must pay the just value of the property taken or damaged. Taking

land for railroads, roads, streets, school-houses, and other public buildings, are instances of such taking of private property for public use.

SEC. 22. All elections shall be free; and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise.

This section prohibits any interference with voters. No one is allowed by any means, to keep a voter away from the polls against his will, and no law can be made which will operate to obstruct voters or to keep honest voters from the polls. But this does not mean that proper regulations for registry and residence may not be made so as to keep fraudulent votes from the ballot box, and to insure that all actual voters shall have a proper interest in the result of the election.

SEC. 23. The writ of error shall be a writ of right in all cases of felony; and in capital cases shall operate as a supersedeas to stay the execution of the sentence of death until the further order of the supreme court in the premises.

A writ of error is the paper that informs the supreme court that an inferior court has committed an error. This section means that, if the accused thinks that the court that tried him has decided wrongfully, he has the right to take his case to the supreme court to have the wrong righted. A capital case is one where the sentence is death. When one sentenced to death goes to the supreme court by writ of error, he cannot be hanged till the court has decided his case. Supersedeas means "you will set aside, suspend, stay."

SEC. 24. The right to be heard, in all civil cases, in the court of last resort, by appeal error, or otherwise, shall not be denied.

All this means that in all civil actions, in the courts, any one of the parties has the right to take his suit to the supreme court, by some method, either by appeal or

by writ of error, if the legislature has provided no other method.

SEC. 25. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment, or descent of property.

This is an unusual provision. It gives to immigrants, who have not become citizens nor declared their intentions to do so, the same right to hold and enjoy property, and to pass it to their relatives, that citizens, native-born, enjoy. This is found in very few of the states.

SEC. 26. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

This is a saving clause, so that if any rights, already enjoyed by the people of Nebraska, should not be included in this bill of rights, the omission will not deprive the people of them. The effect of the last clause of the section is, that the government of Nebraska is a very limited one. If no authority is given to the legislature, or to any officer to do any act, and if it is not absolutely necessary for the legislature or for the officer to do that act in order to carry out some authority that is expressly given, that act cannot be done. This is a great inconvenience in many instances, and yet it is a safeguard always necessary, in some degree, in all representative governments.

## ARTICLE II—DISTRIBUTION OF POWERS.

Section 1. The powers of the government of this state are divided into three distinct departments; the legislative, executive, and judicial; and no person, or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

# ARTICLE III-LEGISLATIVE.

Section 1. The legislative authority is vested in a senate and house of representatives.

SEC. 2. The legislature shall provide by law for an enumeration of the inhabitants of the state in the year eighteen hundred

and eighty-five, and every ten years thereafter; and at its first regular session after each enumeration, and also after each enumeration made by the authority of the United States, but at no other time, the legislature shall apportion the senators and representatives according to the number of inhabitants, excluding ludians, not taxed, and soldiers and officers of the United States army and navy.

SEC. 3. The house of representatives shall consist of eighty four members, and the senate shall consist of thirty members, intil the year eighteen hundred and eighty, after which time the number of members of each house shall be regulated by law; but the number of representatives shall never exceed one hundred, nor that of senators thirty-three. The sessions of the legislature shall be bi-ennial, except as otherwise provided in this constitution.

SEC. 4. The term of office of members of the legislature shall be two years, and they shall each receive pay at the rate of five dollars per day during their sitting, and ten cents for every mile they shall travel in going to and returning from the place of meeting of the legislature, on the most usual route; provided, however, that they shall not receive pay for more than sixty days at any one sitting, nor more than one hundred days during their term.

SEC. 5. No person shall be eligible to the office of senator or member of the house of representatives who shall not be an elector, and have resided within the district from which he is elected for the term of one year next before his election, unless he shall have been absent on the public business of the United States or of this state. And no person elected as aforesaid shall hold his office after he shall have removed from such district.

SEC. 6. No person holding office under the authority of the United States, or any lucrative office under the authority of this state, shall be eligible to or have a seat in the legislature; but this provision shall not extend to precinct or township officers, justices of the peace, notaries public or officers of the militia; nor shall any person interested in a contract with, or an unadjusted claim

against the state, hold a seat in the legislature.

SEC. 7. The session of the legislature shall commence at twelve o'clock (noon) on the first Thesday in January, in the year next ensuing the election of the members thereof, and at no other time, nuless as provided by this constitution. A majority of the members elected to each house shall constitute a quorum. Each house shall determine the rules of its proceedings, and be the judge of the election returns and qualifications of its members; shall choose its own officers; and the senate shall choose a temporary president to preside when the lieutenant-governor shall not attend as president or shall act as governor. The secretary of state shall call the house of representatives to order at the opening of each new legislature, and preside over it until a temporary presiding officer thereof shall have been chosen and shall have taken his seat. No member shall be expelled by either house, except by a vote of

two-thirds of all the members elected to that house, and no member shall be twice expelled for the same offense. Each house may punish by imprisonment any person not a member thereof who shall be guilty of disrespect to the house, by disorderly or contemptuous behavior in its presence; but no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior.

SEC. 8. Each house shall keep a journal of its proceedings, and publish them (except such parts as may require secrecy), and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal. All votes in either house shall be viva voce. The doors of each house and of the committee of the whole shall be open, unless when the business shall be such as ought to be kept secret. Neither house shall, without the consent of the other, adjourn for more than three days.

Sec. 9. Any bill may originate in either house of the legislature, except bills appropriating money, which shall originate only in the house of representatives; and all bills passed by one house

may be amended by the other.

SEC. 10. The enacting clause of a law shall be, "Be it enacted by the legislature of the state of Nebraska," and no law shall be enacted except by bill. No bill shall be passed unless by assent of a majority of all the members elected to each house of the legislature. And the question upon the final passage shall be taken immediately upon its last reading, and the year and nays shall be

entered upon the journal.

SEC. 11. Every bill and concurrent resolution shall be read at large on three different days in each house, and the bill and all amendments thereto shall be printed before the vote is taken upon its final passage. No bill shall contain more than one subject, and the same shall be clearly expressed in its title. And no law shall be amended unless the new act contains the section or sections so amended, and the section or sections so amended shall be repealed. The presiding officer of each house shall sign in the presence of the house over which he presides, while the same is in session and capable of transacting business, all bills and concurrent resolutions passed by the legislature.

SEC. 12. Members of the legislature, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the legislature, and for fifteen days before the

commencement and after the termination thereof.

Sec. 13. No person elected to the legislature shall receive any civil appointment within this state, from the governor and senate, during the term for which he has been elected. And all such appointments, and all votes given for any such member for any such office or appointment, shall be void. Nor shall any member of the legislature, or any state officer, be interested either directly or indirectly, in any contract with the state, county, or city, authorized

by any law passed during the term for which he shall have been elected, or within one year after the expiration thereof.

Sec. 14. The senate and house of representatives in joint convention shall have the sole power of impeachment, but a majority of the members elected must concur therein. Upon the entertainment of a resolution to impeach, by either house, the other house shall at once be notified thereof, and the two houses shall meet in joint convention for the purpose of acting upon such resolution, within three days of such notification. A notice of an impeachment of any officer, other than a justice of the supreme court, shall be forthwith served upon the chief justice by the secretary of the senate, who shall thereupon call a session of the supreme court to meet at the capital, within ten days after such notice, to try the impeachment. A notice of an impeachment of a justice of the supreme court shall be served by the secretary of the senate upon the judge of the judicial district within which the eapital is located, and he thereupon shall notify all the judges of the district court in the state to meet with him within thirty days at the capital, to sit as a court to try such impeachment, which court shall organize by electing one of its number to preside. No person shall be convicted without the concurrence of two-thirds of the members of the court of impeachment, but judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, profit, or trust in this state; but the party impeached, whether convicted or acquitted, shaft nevertheless be liable to prosecution and punishment according to law. No officer shall exercise his official duties after he shall have been impeached and notified thereof, until he shall have been acquitted.

Sec. 15. The legislature shall not pass local or special laws in any of the following cases, that is to say:

For granting divorces.

Changing the names of persons and places.

Laying ont, opening, altering, and working roads or highways. Vacating roads, town plats, streets, alleys, and public grounds. Locating or changing county seats.

Regulating county and township offices. Regulating the practice of courts of justice.

Regulating the jurisdiction and duties of justices of the peace,

police magistrates and constables.

Providing for changes of venue in civil and criminal cases.

Incorporating cities, towns, and villages, or changing or amending the charter of any town, city, or village.

Providing for the election of officers in townships, incorporated

towns, or cities.

Summoning or empaneling grand or petit juries.

Providing for the bonding of cities, towns, precincts, school districts, or other municipalities.

Providing for the management of public schools.

Regulating the interest on money.

The opening and conducting of any election, or designating the place of voting.

The sale or mortgage of real estate belonging to minors or others

under disability.

The protection of game or fish,

Chartering or licensing ferries or toll bridges.

Remitting fines, penalties, or forfeitures.

Creating, increasing, and decreasing fees, percentage, or allowances of public officers, during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association, or individual, the right to lay down railroad tracks, or amending existing charters for such

purpose.

Granting to any corporation, association, or individual, any special or exclusive privileges, immunity, or franchise whatever. In all other cases where a general law can be made applicable, no

special law shall be enacted.

SEC. 16. The legislature shall never grant any extra compensation to any public officer, agent, servant, or contractor, after the services shall have been rendered, or the contract entered into. Nor shall the compensation of any public officer be increased or diminished during his term of office.

SEC. 17. The legislature shall never alienate the salt springs belonging to this state.

Sec. 18. Lands under control of the state shall never be donated to railroad companies, private corporations, or individuals.

SEC. 19. Each legislature shall make appropriations for the expenses of the government until the expiration of the first fiscal quarter after the adjournment of the next regular session, and all appropriations shall end with such fiscal quarter. And whenever it is deemed necessary to make further appropriations for deficiencies, the same shall require a two-thirds vote of all the members elected to each house, and shall not exceed the amount of revenue authorized by law to be raised in such time. Bills making appropriations for the pay of members and officers of the legislature, and for the salaries of the officers of the government, shall contain no provisions on any other subject.

SEC. 20. All offices created by this constitution shall become vacant by the death of the incumbent, by removal from the state, resignation, conviction of a felony, impeachment, or becoming of unsound mind. And the legislature shall provide by general law for the filling of such vacancy when no provision is made for that purpose in this constitution.

SEC. 21. The legislature shall not authorize any games of chance, lottery, or gift enterprise, under any pretense, or for any purpose whatever.

SEC. 22. No allowance shall be made for the incidental expenses of any state officer, except the same be made by general appropriation, and upon an account specifying each item. No money shall be drawn from the treasury, except in pursuance of a specific appropriation made by law, and on the presentation of a warrant issued by the auditor thereon, and no money shall be diverted from any appropriation made for any purpose, or taken from any fund whatever, either by joint or separate resolution. The auditor shall, within sixty days after the adjournment of each session of the legislature, prepare and publish a full statement of all moneys expended at such session, specifying the amount of each item, and to whom and for what paid.

SEC. 23. No member of the legislature shall be liable in any civil or criminal action whatever for words spoken in debate.

SEC. 24. No act shall take effect until three calendar months after the adjournment of the session at which it passed, unless in case of emergency (to be expressed in the preamble or body of the act) the legislature shall, by a vote of two thirds of all the members elected to each house, otherwise direct. All laws shall be published in book form within sixty days after the adjournment of each session, and distributed among the several counties in such manner as the legislature may provide.

#### ARTICLE IV.—LEGISLATIVE APPORTIONMENT.

(Article IV. divided the state into legislative districts and apportioned the members of the senate and house. A new apportionment was made in 1881, hence this article is omitted.)

#### ARTICLE V.—EXECUTIVE DEPARTMENT.

Section 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction, attorney-general, and commissioner of public lands and buildings, who shall each hold his office for the term of two years, from the first Thursday after the first Tuesday in January next after his election, and until his successor is elected and qualified: *Provided*, *however*, that the first election of said officers shall be held on the Tuesday succeeding the first Monday in November, 1876, and each succeeding election shall be held at the same relative time in each even year thereafter. The governor, secretary of state, auditor of public accounts, and treasurer, shall reside at the seat of government during their terms of office, and keep the public records, books, and papers there, and shall perform such duties as may be required by law.

SEC. 2. No person shall be eligible to the office of governor, or lieutenant-governor, who shall not have attained the age of thirty years, and been for two years next preceding his election a citizen of the United States and of this state. None of the officers of the executive department shall be eligible to any other state office during the period for which they shall have been elected.

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Sec. 3. The treasurer shall be ineligible to the office of treasurer for two years next after the expiration of two consecutive terms for

which he was elected.

SEC. 4. The returns of every election for the officers of the executive department shall be sealed up and transmitted by the returning officers to the secretary of state directed to the speaker of the house of representatives, who shall, immediately after the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of each house of the legislature, who shall, for that purpose, assemble in the hall of the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more have an equal and the highest number of votes, the legislature shall, by joint vote, choose one of such persons for said office. Contested elections for all of said offices shall be determined by both houses of the legislature, by joint vote in such manner as may be prescribed by law.

Sec. 5. All civil officers of this state shall be liable to impeach-

ment for any misdemeanor in office.

- Sec. 6. The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.
- The governor shall, at the commencement of each session, and at the close of his term of office, and whenever the legislature may require, give to the legislature information by message of the condition of the state, and shall recommend such measures as he shall deem expedient. He shall account to the legislature, and accompany his message with a statement of all moneys received and paid out by him from any funds subject to his order, with vouchers, and, at the commencement of each regular session, present estimates of the amount of money required to be raised by taxation for all purposes.

The governor may, on extraordinary occasions, convene the legislature by proclamation, stating therein the purpose for which they are convened, and the legislature shall enter upon no

business except that for which they were called together.

SEC. 9. In case of a disagreement between the two houses, with respect to the time of adjournment, the governor may, on the same being certified to him by the house first moving the adjournment, adjourn the legislature to such time as he thinks proper, not

beyond the first day of the next regular session.

The governor shall nominate and, by and with the advice and consent of the senate (expressed by a majority of all the senators elected voting by yeas and nays), appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment and election is not otherwise by law or herein provided for; and no such officer shall be appointed or elected by the legislature.

Sec. 11. In case of a vacancy during the recess of the senate, in any office which is not elective, the governor shall make a tem-

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porary appointment until the next meeting of the senate, when he shall nominate some person to fill such office; and any person so nominated, who is confirmed by the senate, (a majority of all the senators elected concurring by voting yeas and nays), shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified: No person, after being rejected by the senate, shall be again nominated for the same office at the same session, unless at request of the senate, or be appointed to the same office during the recess of the legislature.

SEC. 12. The governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, or malfcasance in office; and he may declare his office vacant, and

fill the same as herein provided in other cases of vacancy.

SEC. 13. The governor shall have the power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the legislature at its next session, when the legislature shall either pardon or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall communicate to the legislature, at every regular session, each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the reprieve, commutation or pardon.

SEC. 14. The governor shall be commander-in-chief of the military and naval forces of the state (except when they shall be called into the service of the United States), and may call out the same to execute the laws, suppress insurrection, and repel invasion.

SEC. 15. Every bill passed by the legislature, before it becomes a law, and every order, resolution, or vote, to which the concurrence of both houses may be necessary (except on questions of adjournment), shall be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it with his objections to the house in which it shall have originated, which house shall enter the objections at large upon its journal, and proceed to reconsider the bill. If then three-fifths of the members elected agree to pass the same, it shall be sent, together with the objection, to the other house, by which it shall likewise be reconsidered; and if approved by threefifths of the members elected to that house, it shall become a law, notwithstanding the objections of the governor. In all such cases, the vote of each house shall be determined by year and nays, to be entered upon the journal. Any bill which shall not be returned by the governor within five days (Simdays excepted), after it shall have been presented to him, shall become a law in like manner as if he had signed it, unless the legislature, by their adjournment prevent its return; in which case it shall be filed, with his objections, in the office of the secretary of state, within five days after such adjournment, or become a law. The governor may disapprove any item or items of appropriation contained in bills passed by the legislature, and the item or items so disapproved shall be stricken therefrom, unless re-passed in the manner herein described in case of disapproval of bills.

SEC. 16. In case of the death, impeachment and notice thereof to the accused, failure to qualify, resignation, absence from the state, or other disability of the governor, the powers, duties and emoluments of the office, for the residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant-

governor.

SEC. 17. The lieutenant-governor shall be president of the sen-

ate and shall vote only when the senate is equally divided.

SEC. 18. If there be no lieutenant-governor, or if the lieutenant-governor, for any of the causes specified in section sixteen of this article, become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above-named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 19. The commissioner of public lands and buildings, the secretary of state, treasurer, and attorney-general shall form a board, which shall have general supervision and control of all the buildings, grounds, and lands of the state, the state prison, asylums, and all other institutions thereof, except those for educational purposes; and shall perform such duties and be subject to such

rules and regulations as may be prescribed by law.

Sec. 20. If the office of auditor of public accounts, treasurer, secretary of state, attorney-general, commissioner of public lands and buildings, or superintendent of public instruction, shall be vacated by death, resignation, or otherwise, it shall be the duty of the governor to fill the same by appointment; and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law.

SEC. 21. An account shall be kept by the officers of the executive department, and of all the public institutions of the state, of all moneys received or disbursed by them severally from all sources, and for every service performed, and a semi-annual report thereof be made to the governor, under oath; and any officer who makes a false report shall be guilty of perjury and punished accordingly.

Sec. 22. The officers of the executive department and of all the public institutions of the state, shall, at least ten days preceding each regular session of the legislature, severally report to the governor, who shall transmit such reports to the legislature, together with the reports of the judges of the supreme court, of the defects

in the constitution and laws, and the governor or either house of the legislature may at any time require information in writing, under oath, from the officers of the executive department, and all officers and managers of the state institutions, upon any subject relating to the condition, management, and expenses of their respective offices.

SEC. 23. There shall be a seal of the state, which shall be called the "Great Seal of the State of Nebraska," which shall be kept by the secretary of state, and used by him officially, as directed by

law.

SEC. 24. The salaries of the governor, anditor of public accounts, and treasurer, shall be two thousand five hundred dollars (\$2,500) each, per annum, and of the secretary of state, attorney-general, superintendent of public instruction, and commissioner of public lands and buildings, two thousand dollars (\$2,000) each, per annum. The lieutenant governor shall receive twice the compensation of a senator, and after the adoption of this constitution they shall not receive to their own use any fees, costs, interest upon public moneys in their hands or under their control, perquisites of office or other compensation, and all fees that may hereafter be payable by law for services performed by any officer, provided for in this article of the constitution, shall be paid in advance into the state treasury. There shall be no allowance for clerk hire in the offices of the superintendent of public instruction and attorney-general.

SEC. 25. The officers mentioned in this article shall give bonds in not less than double the amount of money that may come into their hands, and in no case in less than the sum of fifty thousand dollars, with such provisions as to sureties and the approval thereof, and for the increase of the penalty of such bonds, as may be pre-

scribed by law.

SEC. 26. No other executive state office shall be continued or created, and the duties now devolving upon officers not provided for by this constitution shall be performed by the officers herein created.

#### ARTICLE VI.—THE JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this state shall be vested in a supreme court, district courts, county courts, justices of the peace, police magistrates, and in such other courts inferior to the district courts as may be created by law for cities and incorporated towns.

SEC. 2. The supreme court shall consist of three judges, a majority of whom shall be necessary to form a quorum or to pronounce a decision. It shall have original jurisdiction in cases relating to the revenue, civil cases in which the state shall be a party, mandamus, quo warranto, habeas corpus, and such appellate jurisdiction as may be provided by law.

SEC. 3. At least two terms of the supreme court shall be held each year at the seat of government.

SEC. 4. The judges of the supreme court shall be elected by the electors of the state at large, and their terms of office, except of those chosen at the first election, as hereinafter provided, shall be six years.

SEC. 5. The judges of the supreme court shall immediately after the first election under this constitution, be classified by lot so that one shall hold his office for the term of two years, one for

the term of four years, and one for the term of six years.

Sec. 6. The judge of the supreme court having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the chief justice, and as such shall preside at all terms of the supreme court; and, in case of his absence, the judge having in like manner the next shortest term to serve, shall preside in his stead.

SEC. 7. No person shall be eligible to the office of judge of the supreme court unless he shall be at least thirty years of age, and a citizen of the United States; nor unless he shall have resided in

this state at least three years next preceding his election.

SEC. 8. There shall be appointed by the supreme court a reporter, who shall also act as clerk of the supreme court, and librarian of the law and miscellaneous library of the state, whose term of office shall be four years, unless sooner removed by the court, whose salary shall be fixed by law, not to exceed fifteen hundred dollars per annum. The copyright of the state reports shall forever belong to the state.

SEC. 9. The district courts shall have both chancery and common law jurisdiction, and such other jurisdiction as the legislature may provide, and the judges thereof may admit persons charged with felony to a plea of guilty, and pass such sentence as may be prescribed by law.

SEC. 10. The state shall be divided into six judicial districts, in each of which shall be elected by the electors thereof, one judge, who shall be judge of the district court therein, and whose term of

office shall be four years.

Unless otherwise provided by law, said districts shall be as follows:

(This section divided the state into six judicial districts. A new division

was made in 1883 hence the omission of the balance of this section.)

SEC. 11. The legislature, whenever two-thirds of the members elected to each house shall concur therein, may, in or after the year one thousand eight hundred and eighty, and not oftener than once in every four years, increase the number of judges of the district courts, and the judicial districts of the state. Such districts shall be formed of compact territory, and bounded by county lines; and such increase, or any change in the boundaries of a district, shall not vacate the office of any judge.

SEC. 12. The judges of the district courts may hold courts for

each other, and shall do so when required by law.

SEC. 13. The judges of the supreme and district courts shall each receive a salary of \$2,500 per annum, payable quarterly.

SEC. 14. No judge of the supreme or district courts shall receive any other compensation, perquisite, or benefit for or on account of his office in any form whatever; nor act as attorney or counsellor-at-law in any manner whatever; nor shall any salary be paid to any county judge.

SEC. 15. There shall be elected in and for each organized county, one judge, who shall be judge of the county court of such

county, and whose term of office shall be two years.

SEC. 16. County courts shall be courts of record, and shall have original jurisdiction in all matters of probate, settlements of estates of deceased persons, appointment of guardians, and settlement of their accounts; in all matters relating to apprentices; and such other jurisdiction as may be given by general law. But they shall not have jurisdiction in criminal cases in which the punishment may exceed six months' imprisonment, or a fine of over five hundred dollars; nor in actions in which title to real estate is sought to be recovered, or may be drawn in question; nor in actions on mortgages or contracts for the conveyance of real estate; nor in civil actions, where the debt or sum claimed shall exceed one thousand dollars.

SEC. 17. Appeals to the district courts from the judgments of county courts shall be allowed in all criminal cases, on application of the defendant; and in all civil cases, on application of either

party, and in such other cases as may be provided by law.

SEC. 18. Justices of the peace and police magistrates shall be elected in and for such districts, and have and exercise such jurisdiction as may be provided by law; *Provided*, that no justice of the peace shall have jurisdiction of any civil case where the amount in controversy shall exceed two hundred dollars; nor in a criminal case where the punishment may exceed three months' imprisonment, or a fine of over one hundred dollars; nor in any matter wherein the title or boundaries of land may be in dispute.

SEC. 19. All laws relating to courts shall be general and of uniform operation, and the organization, jurisdiction, powers, proceedings, and practice of all courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments, and decrees of such courts, severally shall be uniform.

SEC. 20. All officers provided for in this article shall hold their offices until their successors shall be qualified, and they shall respectively reside in the district, county, or precinct for which they shall be elected or appointed. The terms of office of all such officers, when not otherwise prescribed in this article, shall be two years. All officers, when not otherwise provided for in this article, shall perform such duties and receive such compensation as may be provided by law.

SEC. 21. In case the office of any judge of the supreme court, or of any district court, shall become vacant before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor shall be

elected and qualified, and such successor shall be elected for the unexpired term at the first general election that occurs more than thirty days after the vacancy shall have happened. Vacancies in all other elective offices provided for in this article, shall be filled by election, but when the unexpired term does not exceed one year, the vacancy may be filled by appointment, in such manner as the legislature may provide.

SEC. 22. The state may sue and be sued, and the legislature shall provide by law in what manner and in what courts suit shall

be brought.

Sec. 23. The several judges of the courts of record shall have

such jurisdiction at chambers as may be provided by law.

SEC. 24. All process shall run in the name of "The State of Nebraska," and all prosecutions shall be carried on in the name of "The State of Nebraska."

## ARTICLE VII.—RIGHTS OF SUFFRAGE.

Section 1. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the state six months, and in the county, precinct or ward, for the term provided by law, shall be an elector:

First—Citizens of the United States;

Second—Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization, at least thirty days prior to an election.

Sec. 2. No person shall be qualified to vote who is non compos mentis, or who has been convicted of treason or felony under the law of the state, or of the United States, unless restored to civil rights.

SEC. 3. Every elector in the actual military service of the United States, or of this state, and not in the regular army, may exercise the right of suffrage at such place and under such regulations as

may be provided by law.

SEC. 4. No soldier, seaman or marine in the army and navy of the United States, shall be deemed a resident of the state in conse-

quence of being stationed therein.

SEC. 5. Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and going to and returning from the same, and no elector shall be obliged to do military duty on the days of election, except in time of war and public danger.

Sec. 6. All votes shall be by ballot.

#### ARTICLE VIII—EDUCATION.

Section 1. The governor, secretary of state, treasurer, attorney-general, and commissioner of public lands and buildings, shall, under the direction of the legislature, constitute a board of commissioners for the sale, leasing, and general management of all

lands and funds set apart for educational purposes, and for the investment of school funds in such manner as may be prescribed by law.

SEC. 2. All lands, money or other property, granted or bequeathed, or in any manner conveyed to this state for educational purposes, shall be used and expended in accordance with the terms of such grant, bequest or conveyance.

SEC. 3. The following are hereby declared to be perpetual funds for common school purposes, of which the annual interest

or income only can be appropriated, to-wit:

First—Such per centum as has been or may hereafter be granted by congress on the sale of lands in this state;

Second—All moneys arising from the sale or leasing of sections number sixteen and thirty-six in each township in this state, and the lands selected or that may be selected in lieu thereof;

Third—The proceeds of all lands that have been or may hereafter be granted to this state, where, by the terms and conditions of such grant, the same are not to be otherwise appropriated;

Fourth—The net proceeds of lands and other property and effects that may come to the state by escheat or forfeiture, or from unclaimed dividends or distributive shares of the estates of deceased persons;

Fifth—All moneys, stocks, bonds, lands and other property, now belonging to the common school fund.

SEC. 4. All other grants, gifts and devises that have been or may hereafter be made to this state, and not otherwise appropriated by the terms of the grant, gift, or devise; the interest arising from all the funds mentioned in the preceding section, together with all the rents of the unsold school lands, and such other means as the legislature may provide, shall be exclusively applied to the support and maintenance of common schools in each school district in the state.

SEC. 5. All fines, penalties, and license moneys arising under the general laws of the state, shall belong and be paid over to the counties respectively where the same may be levied or imposed; and all fines, penalties, and license moneys arising under the rules, by-laws, or ordinances of cities, villages, towns, precincts or other municipal sub-divisions less than a county, shall belong and be paid over to the same respectively. All such fines, penalties, and license moneys shall be appropriated exclusively to the use and support of common schools in the respective sub-divisions where the same may accrue.

SEC. 6. The legislature shall provide for the free instruction in the common schools of this state of all persons between the ages of

five and twenty-one years.

SEC. 7. Provisions shall be made by general law for an equitable distribution of the income of the fund set apart for the support of the common schools, among the several school districts of the state,

and no appropriation shall be made from said fund to any district for the year in which school is not maintained at least three months.

- SEC. 8. University, agricultural college, common school, or other lands, which are now held or may hereafter be acquired by the state for educational purposes, shall not be sold for less than seven dollars per acre, nor less than the appraised value.
- SEC. 9. All funds belonging to the state for educational purposes, the interest and income whereof only are to be used, shall be deemed trust funds held by the state, and the state shall supply all losses thereof that may in any manner accrue, so that the same shall remain forever inviolate and undiminished; and shall not be invested or loaned except on United States or state securities, or registered county bonds of this state; and such funds, with interest and income thereof, are hereby solemnly pledged for the purposes for which they are granted and set apart, and shall not be transferred to any other fund for other uses.
- SEC. 10. The general government of the university of Nebraska shall, under the direction of the legislature, be vested in a board of six regents, to be styled the board of regents of the university of Nebraska, who shall be elected by the electors of the state at large, and their term of office, except those chosen at the first election, as hereinafter provided, shall be six years. Their duties and powers shall be prescribed by law; and they shall receive no compensation, but may be reimbursed their actual expenses incurred in the discharge of their duties.
- Sec. 11. No sectarian instruction shall be allowed in any school or institution supported in whole or in part by the public funds set apart for educational purposes; nor shall the state accept any grant, conveyance, or bequest of money, lands, or other property, to be used for sectarian purposes.
- SEC. 12. The legislature may provide by law for the establishment of a school or schools for the safe keeping, education, employment, and reformation of all children under the age of sixteen years, who, for want of proper parental care, or other cause, are growing up in mendicancy or crime.

### ARTICLE IX.—REVENUE AND FINANCE,

Section 1. The legislature shall provide such revenue as may be needful, by levying a tax by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her, or its property and franchises, the value to be ascertained in such manner as the legislature shall direct, and it shall have power to tax peddlers, auctioneers, brokers, hawkers, commission merchants, showmen, jugglers, innkeepers, liquor dealers, toll bridges, ferries, insurance, telegraph and express interests or business, venders of patents, in such manner as it shall direct by general law, uniform as to the class upon which it operates.

- SEC. 2. The property of the state, counties, and municipal corporations, both real and personal, shall be exempt from taxation; and such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery, and charitable purposes, may be exempted from taxation, but such exemption shall be only by general law. In the assessment of real estate encumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property. The legislature may provide that the increased value of lands, by reason of live fences, fruit and forest trees grown and cultivated thereon, shall not be taken into account in the assessment thereof.
- SEC. 3. The right of redemption from all sales of real estate, for the non-payment of taxes or special assessment of any character whatever, shall exist in favor of owners and persons interested in such real estate for a period of not less than two years from such sales thereof; *Provided*, that occupants shall in all cases be served with personal notice before the time of redemption expires.
- SEC. 4. The legislature shall have no power to release or discharge any county, city, township, town, or district whatever, or the inhabitants thereof, or any corporation, or the property therein, from their or its proportionate share of taxes to be levied for state purposes, or due any municipal corporation, nor shall commutation for such taxes be authorized in any form whatever.
- SEC. 5. County authorities shall never assess taxes the aggregate of which shall exceed one and a half dollars per one hundred dollars valuation, except for the payment of indebtedness existing at the adoption of this constitution, unless authorized by a vote of the people of the county.
- SEC. 6. The legislature may vest the corporate authorities of cities, towns and villages with power to make local improvements by special assessments, or by special taxation of property benefited. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same.
- SEC. 7. Private property shall not be liable to be taken or sold for the payment of the corporate debts of municipal corporations. The legislature shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes.
- SEC. 8. The legislature, at its first session, shall provide a law for the funding of all outstanding warrants and other indebtedness of the state, at a rate of interest not exceeding eight per cent per annum.
- SEC. 9. The legislature shall provide by law that all claims upon the treasury shall be examined and adjusted by the auditor and approved by the secretary of state before any warrant for the

amount allowed shall be drawn. *Provided*, that a party aggrieved by the decision of the auditor and secretary of state may appeal to the district court.

#### ARTICLE X-COUNTIES.

Section 1. No new county shall be formed or established by the legislature which will reduce the county or counties, or either of them, to a less area than four hundred square miles, nor shall any county be formed of a less area.

SEC. 2. No county shall be divided, or have any part stricken therefrom, without first submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters

of the county voting on the question shall vote for the same.

SEC. 3. There shall be no territory stricken from any organized county unless a majority of the voters living in such territory shall petition for such division, and no territory shall be added to any organized county without the consent of the majority of the voters of the county to which it is proposed to be added; but the portion so stricken off and added to another county, or formed in whole, or in part, into a new county, shall be holden for and obliged to pay its proportion of the indebtedness of the counties from which it has been taken.

Sec. 4. The legislature shall provide by law for the election of

such county and township officers as may be necessary.

SEC. 5. The legislature shall provide by general law for town-ship organization, under which any county may organize, whenever a majority of the legal voters of such county, voting at any general election, shall so determine; and, in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county at a general election in a manner that shall be provided by law.

### ARTICLE XI-CORPORATIONS.

#### RAILROAD CORPORATIONS.

Section 1. Every railroad corporation organized or doing business in this state, under the laws or authority thereof, or of any other state, or of the United States, shall have and maintain a public office or place in this state for the transaction of its business, where transfers of stock shall be made, and in which shall be kept, for public inspection, books in which shall be recorded the amount of capital stock subscribed, and by whom, the names of the owners of its stock and the amounts owned by them respectively, the amount of stock paid in, and by whom, the transfers of said stock, the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad corporation, or other parties having control of its road, shall annually make a report, under oath, to the auditor of public accounts, or some officer to be designated by law, of the amount

received from passengers and freight, and such other matters relating to railroads as may be prescribed by law. And the legislature shall pass laws enforcing by suitable penalties the provisions of this section.

- SEC. 2. The rolling stock and all other movable property belonging to any railroad company or corporation in this state, shall be liable to execution and sale in the same manner as the personal property of individuals, and the legislature shall pass no law exempting any such property from execution and sale.
- SEC. 3. No railroad corporation or telegraph company shall consolidate its stock, property, franchises, or earnings, in whole or in part, with any other railroad corporation or telegraph company owning a parallel or competing line; and in no case shall any consolidation take place, except upon public notice of at least sixty days to all stock holders in such manner as may be provided by law.
- SEC. 4. Railways heretofore constructed, or that may hereafter be constructed in this state, are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as may be prescribed by law. And the legislature may, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this state. The liability of railroad corporations as common carriers shall never be limited.
- SEC. 5. No railroad corporation shall issue any stock or bonds, except for money, labor, or property actually received and applied to the purposes for which such corporation was created, and all stock, dividends, and other fictitions increase of the capital stock or indebtedness of any such corporation shall be void. The capital stock of railroad corporations shall not be increased for any purpose, except after public notice of sixty days, in such manner as may be provided by law.
- SEC. 6. The exercise of the power and the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the legislature, of the property and franchises of incorporated companies already organized or hereafter to be organized, and subjecting them to the public necessity, the same as of individuals.
- SEC. 7. The legislature shall pass laws to correct abuses and prevent unjust discrimination and extortion in all charges of express, telegraph, and railroad companies in this state, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.
- SEC. 8. No railroad corporation organized under the laws of any other state, or of the United States, and doing business in this state, shall be entitled to exercise the right of eminent domain, or have power to acquire the right of way or real estate for depot or

other uses, until it shall have become a body corporate pursuant to and in accordance with the laws of this state.

#### MUNICIPAL CORPORATIONS.

SECTION 1. No city, county, town, precinct, municipality, or other sub-division of the state, shall ever become a subscriber to the capital stock, or owner of such stock, or any portion or interest therein, of any railroad or private corporation or association.

### MISCELLANEOUS CORPORATIONS.

Section 1. No corporation shall be created by special law, nor its charter extended, changed, or amended, except those for charitable, educational, penal, or reformatory purposes, which are to be and remain under the patronage and control of the state, but the legislature shall provide by general laws for the organization of all corporations hereafter to be created. All general laws passed pursuant to this section may be altered from time to time, or repealed.

Sec. 2. No such general law shall be passed by the legislature, granting the right to construct and operate a street railroad within any city, town, or incorporated village, without first requiring the

consent of a majority of the electors thereof.

Sec. 3. All corporations may sue and be sued in like cases as

natural persons.

SEC. 4. In all cases of claims against corporations and jointstock associations, the exact amount justly due shall be first ascertained, and after the corporate property shall have been exhausted, the original subscribers thereof shall be individually liable to the extent of their unpaid subscription, and the liability for the unpaid

subscription shall follow the stock.

SEC. 5. The legislature shall provide by law that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote in person or by proxy for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them upon the same principal among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

SEC. 6. All existing charters or grants of special or exclusive privileges under which organization shall not have taken place, or which shall not be in operation within sixty days from the time this constitution takes effect, shall thereafter have no validity or

effect whatever.

SEC. 7. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him held, to an amount equal to his respective stock or shares so held for all its liabilities.

accruing while he remains such stockholder; and all banking corporations shall publish quarterly statements, under oath, of their assets and liabilities.

ARTICLE XII. - STATE, COUNTY, AND MUNICIPAL INDEBTEDNESS.

Section 1. The state may, to meet casual deficits or failures in the revenues, contract debts never to exceed in the aggregate one hundred thousand dollars; and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the state in war, and provision shall be made for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue, which law providing for the payment of such interest by such tax

shall be irrepealable until such debt be paid.

Sec. 2. No city, county, town, precinct, municipality, or other sub-division of the state shall ever make donations to any railroad or other work of internal improvement, unless a proposition so to do shall have been first submitted to the qualified electors thereof at an election by authority of law; *Provided*, that such donations of a county with the donations of such sub-divisions in the aggregate shall not exceed ten per cent. of the assessed valuation of such county; *Provided*, *further*, that any city or county may, by a two-thirds vote, increase such indebtedness five per cent. in addition to such ten per cent., and no bonds or evidences of indebtedness so issued shall be valid unless the same shall have endorsed thereon a certificate signed by the secretary and anditor of state, showing that the same is issued pursuant to law.

SEC. 3. The credit of the state shall never be given or loaned

in aid of any individual, association, or corporation.

#### ARTICLE XIII-MILITIA.

Section 1. The legislature shall determine what persons shall constitute the militia of the state, and may provide for organizing and disciplining the same.

### ARTICLE XIV-MISCELLANEOUS PROVISIONS.

 withhold on any bill, resolution, or appropriation)." Any such officer or member of the legislature who shall refuse to take the oath herein prescribed shall forfeit his office, and any person who shall be convicted of having sworn falsely to, or of violating his said oath, shall forfeit his office, and thereafter be disqualified from holding any office of profit or trust in this state, unless he shall have been restored to civil rights.

SEC. 2. Any person who is in default as collector and custodian of public money or property shall not be eligible to any office of trust or profit under the constitution or laws of this state; nor shall any person convicted of felony be eligible to office unless he

shall have been restored to civil rights.

SEC. 3. Drunkenness shall be cause of impeachment and removal from office.

### ARTICLE XV-AMENDMENTS.

Section 1. Either branch of the legislature may propose amendments to this constitution, and, if the same be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and published at least once each week in at least one newspaper in each county, where a newspaper is published, for three months immediately preceding the next election of senators and representatives, at which election the same shall be submitted to the electors for approval or rejection, and if a majority of the electors voting at such election adopt such amendments, the same shall become a part of this constitution. When more than one amendment is submitted at the same election, they shall be so submitted as to enable the electors to vote on each amendment separately.

SEC. 2. When three-fifths of the members elected to each branch of the legislature deem it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members of the legislature for or against a convention, and if a majority voting at said election vote for a convention, the legislature shall, at its next session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives, who shall be chosen in the same manner, and shall meet within three months after their election, for the purpose aforesaid. No amendment or change of this constitution, agreed upon by such convention, shall take effect until the same has been submitted to the electors of the state, and adopted by a majority of those voting for and against the same.

ALLOWING ELECTORS TO EXPRESS THEIR PREFERENCE FOR UNITED STATES SENATOR.

The legislature may provide that at the general election immediately preceding the expiration of the term of a United States

senator from this state, the electors may by ballot express their preference for some person for the office of United States senator. The votes cast for such candidates shall be canvassed and returned in the same manner as for state officers.

### SEAT OF GOVERNMENT.

The seat of government of the state shall not be removed or relocated without the assent of a majority of the electors of the state, voting thereupon at a general election or elections, under such rules and regulations as to the number of elections and manner of voting, and places to be voted for, as may be prescribed by law; Provided, the question of removal may be submitted at such other general elections as may be provided by law.

Done in convention at the capitol in the city of Lincoln, on the twelfth day of June, in the year of our Lord, one thousand eight hundred and seventy-five, and of the Independence of the United States of America the ninety-ninth.



### HISTORY OF NEBRASKA.

## CHAPTER I.—EXPLORATION.

The section of country now called Nebraska seems to have been trodden by feet of white men soon after the discovery of the continent. The reader will remember that Columbus made his discovery October 12, 1492, and that in 1518, Cortes departed upon his expedition for the conquest of Mexico, the final subjugation of which was accomplished in 1521. Mexico proper then embraced the present territories, Arizona and New Mexico. In the northern portion of Mexico, near the present boundary line between Arizona and New Mexico, are the Zuni ruins. In early Mexican history, under the Spaniards, this Zuni settlement, of Indians fairly civilized, was known as the "seven cities of Cibola," said to be rich in gold and other evidences of wealth.

A short time previous to 1540, Francisco Vasquez de Coronado arrived in Mexico, (then called New Spain,) as governor of one of the provinces. He was a Spaniard of the knightly order, and sought, in the new country, adventure, wealth, and renown. He married Beatrix, daughter of Estrada, the royal provincial treasurer, who administered the government during the investigation into the charges against Cortes.

In 1530, Nuno de Guzman, president of New Spain, headed an expedition in search of the seven cities. The difficulties encountered in trying to cross the mountains caused him to abandon the enterprise. Soon after the arrival of Coronado the subject was revived and Coronado

organized another search-party. He seems to have started from the city of Mexico in 1540, to have passed up the Gulf of California and the Colorado river and then gone easterly to the cities of Cibola. The cities were found to be mere hamlets, and the houses small. No treasures were found. After wreaking his vengeance upon the innocent inhabitants, he passed to the east to the Rio Grande river. He was told that to the north-east lay a great city Quivira, rich in treasure, ruled by the white-haired chief, Tartarrax.

In the spring of 1541 he started in search of Quivira, under the guidance of an Indian from the east, whom he called the Turk. The authorities mark out the route through Colorado and Kansas. Coronado says that in latitude 40, he reached the province of Quivira, but he found no large city, no remarkable houses, no stores of gold, no wealth. "I sojourned twenty-five days," he wrote to the king, "in the province Quivira, as much to thoroughly explore the country as to see if I could not find some further occasion to serve your Majesty, for the guides whom I brought with me have spoken of provinces situated still further on. That which I have been able to learn is, that in all this country one can find neither gold nor any other metal. They spoke to me of small villages, whose inhabitants for the most part do not cultivate the soil. They have huts of hides and of willows, and change their places of abode with the buffaloes." Coronado also learned about a river larger than any that he had crossed, called Tencarea, which has been supposed to be the Missouri.

Coronado took pleasure in hanging the guides who had lured him so far from New Mexico, through wastes and deserts. Before their death, they confessed that they

had deceived the Spaniards and led them as they had done in the hope that the whole Spanish army would perish on the journey. At the northern point reached by Coronado, he erected a cross, on which he inscribed: "Francisco Vasquez de Coronado, general of an expedition, reached this place." The location of "this place" is not definitely known, but Judge Savage is confident that it was on the southern bank of the Platte. One of his companions, John of Padilla, returned to Quivira, with a small band in order to teach the Christian religion to the Indians. His after fate is unknown.

Fifty-eight years after the journey of Coronado, in the year 1599, one Onate, a Spaniard, made an attempt to reach Quivira. The accounts of the attempt are so indistinct aud indefinite that we can only conjecture concerning some parts of the journey. He seems to have marched from Santa Fe, a distance nearly or quite seven hundred miles, over prairie and river to a populous Indian city extending several leagues in extent. His followers appear to have been less brave and daring than himself and thus he was compelled to return. If he traveled his "two hundred leagues and a little more," as he says he did, and if his road was reasonably direct, Onate was an early visitor to the prosperous state of Nebraska.

In all Spanish conquests, the conquerors never lost sight of the fact that the conquered were heathens "with souls to be saved." The clergy followed close upon the heels of the army, carrying the cross to the pagans. Accordingly after the discovery of the province of Quivira, several pious pilgrimages were made in that direction, from Mexico, but none of them have added much to the stock of our information. One of these pil-

grimages is said to have extended some seven hundred miles from Santa Fe, to the banks of a large and swift-flowing river, which so terrorized the Indian guides that the pilgrims were compelled to return unsuccessful. The seven hundred miles would have carried them about as far as the point reached by Onate. Another party reached a point north of Quivira, in the region now known as South Dakota, and converted a tribe so suddenly that the deed was attributed to the direct interposition of the Deity. This party evidently crossed the whole width of Nebraska, the first excursion of that character made by white men. The dates of these two pilgrimages are not given.

But the Spaniards of Mexico never allowed Quivira to escape their memory. It was always present in their thoughts as an El Dorado, unexplored. More than sixty years since Onate's attempt had fled, when another movement was made looking to the discovery and conquest of the fabled Quivira. Don Diego, Count of Penalosa, was a creole of Lima, Peru, and became governor of the northern province of Mexico, probably embracing the present Arizona, New Mexico, and part of Texas. He left Santa Fe March 6, 1662, with eighty Spanish knights, one thousand Indians, thirty-six wagons, eight hundred horses, three hundred mules and six pieces of cannon. His general course was nearly the same as that followed by Coronado, more than a century before. On the journey, when under the fortieth parallel of latitude, he fell in with a war party of Indians called the Escanzaques, (Kansas) about three thousand strong, who represented themselves to be on the war path against their hereditary enemies, the inhabitants of Quivira. Penalosa added this force to his own and continued his march.

Reaching the bank of a rushing river, they proceeded along its valley (dates and distances not clearly given) until they halted on a spot where on the opposite side another stream entered the river. Between these two streams, on a spacious prairie, they beheld a vast city. This was one of the cities of Quivira. It contained thousands of houses, some even four stories in height, of frame and skillfully thatched. The city extended more than two leagues, upon a broad prairie said to be eighteen or twenty miles in breadth. A delegation of seventy caciques, or chiefs, splendidly attired, came over the river to welcome the strangers. They brought gifts of their most precious possessions, - "furs of ermine, ofter and beaver, deer and buffalo skins, pumpkins and beans, bread of maize, with stores of wild game and fresh fish." They promised more when Penalosa should cross the river the next day.

But when the next day actually came, the dwellers in the peaceful city of Quivira had no presents which they could bestow upon the Spaniards. During the night, without the knowledge of Penalosa, the Escanzaques had forded the river, fallen upon the sleeping city, ravaged, burned and murdered, so that, when Penalosa crossed the river at sunrise, not a living soul was found within it of all the thousands who were there the day before. The natives, timid and unwarlike, who survived the slaughter of the night, had fled.

The Spaniards occupied the day in extinguishing the flames and repressing the fury of their Indian allies. Even this expedition was doomed to disappointment. A thorough search failed to bring to light gold or other precious metals or stones. After traversing the streets of the fallen city, admiring its extent and former magnifi-

cence, the fertility of the strong, black soil, and its wealth of production, the vast cavalcade of Spaniards and Indians turned their faces toward the south. They began their homeward march June 11, 1662. On the journey, the Spaniards had a sanguinary battle with their allies, the Escanzaques, but we are not informed as to its cause. While the location of the city of Quivira, visited by Penalosa, is not definitely fixed, yet the evidence discovered places it in the valley at the confinence of the Lonp and Platte.\*

Up to this date, we have found that the explorers have been uniformly Spaniards from Mexico, hunting gold primarily, and conquests for the Spanish king, incidentally. The gold was not found, and the conquests were at too great a distance to be held. In the meanwhile the French had discovered and claimed the valley of the Mississippi river.

New Orleans was founded in 1718. In the following year Bienville, the newly appointed governor of Louisiana, sent Dutisne, a French officer, to inspect the northern and western portions of his new possessions. Dutisne visited the Osage, Paduca and Pawnee Indians; the two latter tribes had their homes in Nebraska. In 1724 French explorers penetrated westward and northward from St. Louis, along the western bank of the Missouri river. That they were within the present limits of Kansas seems

<sup>\*</sup>The reader may be interested in a titular description of Penalosa. Father Nicholas de Freytas, who wrote the principal account of the expedition of Penalosa, thus describes him: "Don Diego Dionysio, of Penalosa, Bricena and Verdugo, Ocampo and Valdivia, lord of the cities of Gnarina and Farara, and their eleven towns, tributary Knight Vassal in the City of La Paz, provincial alcalde and perpetual ruler therein, and in the flve provinces of its district; Governor and Captain General of New Mexico, lawful successor and heir of the marquisate of Arauco, the Countship of Valdivia (province of Chili,) the Vis countship of La Imperial, and the marquisate of Oristan, claiming to be Marquis of Farara and Count of Santa Fe de Penalosa, Adalantado of Chili and of the Great Quivira in the west of this new world of America." Penalosa expected to be made Duke of Quivira, but was disappointed.

to be certain, and that some of them were in Nebraska is highly probable. The accounts of all those early French explorations are provokingly indefinite as to names, dates and localities.

In 1739 there was a movement in Nebraska whose details are reasonably definite. On May 29, of that year, a company of eight men were at or near Genoa, on the Loup river. How or when they reached that place has not been told in any documents known to us. Seven of them were French Canadians, and we do not know the nationality of the other. Their names are Peter Mallet, Paul Mallet, Philip Robitaille, Louis Moreau, Michael Beslot, Joseph Bellecourt, Manuel Gallien and Jean David. They seem to have been sent by the governor of Louisiana to go to New Mexico and to discover its capabilities for trade, and possibly to discover its military strength. If it were a mere trading venture it is difficult to understand why the party should have started from the Loup. On the day mentioned above, the party started from the Loup, traveling, it would appear, in a southwesterly direction. On the third day out, they reached a wide and shallow river which they named the Platte. The word is from the French and has the sense, broad, flat. The name is quite appropriate and this seems to have been the first application of the name to this river. It is conjectured that they must have found the Platte at some point not far west of Kearney. As the direction from which the river flowed at the point where they reached it was nearly identical with that in which they wished to go, they followed it westwardly a distance of twenty-eight leagues—over eighty-four miles. This brought them to the south branch of the Platte, which they called the Padouca. They did not know very

definitely the direction to New Mexico, and so they followed the north branch of the Platte for three days, when, finding that it was leading away from their proposed route, they crossed back to the South Platte, and pursued their journey. On June 20, they crossed a deep and rapid stream, losing seven horses loaded with merchandise. This river would seem to be the Kansas, and the one crossed June 30, the Arkansas.

The party reached Santa Fe July 22, and were received kindly and treated with marked hospitality. At Santa Fe, they remained nine months, awaiting an answer to their petition to trade, which had to be sent to the royal governor, in Mexico. Louis Moreau married and remained in New Mexico. Three returned to the Loup, but we learn nothing more about them. Four descended the Arkansas river, losing all their possessions in the trip, and reported to the governor of Louisiana.

In 1762, two brothers, Pierre and August Choteau, are said to have passed up the Platte river, beyond the forks, in pursuit of game. In the same year, after the conquest of Canada, by England, the province of Louisiana was ceded to Spain.

Whether French travelers actually visited the country west of the Mississippi, at an early date, or not, they were enabled, in and through their friendly intercourse with the Indians, to obtain a fair knowledge of the country. A map, drawn by Father Marquette, in 1673, discriptive of his voyage down the Mississippi, has lately been discovered. Upon this map is drawn the general course of the Missouri to a point far north of Nebraska, and the Platte is laid down in almost its exact position. Among the names of Indian tribes scattered about the region of the two rivers are found Panas, Omahas and

Otontantes. These may be easily translated, Pawnees, Omahas and Otoes. (?) The map is the more wonderful, as Father Marquette did not visit the region delineated.

In 1721 Charlevoix named and described the different tribes of Indians residing upon the Missouri, and stated their location with almost as much accuracy as though he had had personal knowledge of the territory which they inhabited.

The province remained Spanish territory until October 1, 1800, when it was ceded to France. Napoleon needed money and desired to make the French possessions in America safe from British seizure; according to treaty of April 30, 1803, the United States purchased the whole French territory west of the Mississippi for fifteen million dollars. Early in 1804, Captains Lewis and Clarke were despatched up the Missouri river for exploration. party encamped July 11, on an island at the mouth of the Nemaha river. They also visited the shores at the mouths of the Little Nemaha and Platte and at other points. On July 30, they held a council with the Indians near Fort Calhoun, in Washington county and named the place where the council was held, Council Bluffs. They also held a council with the Poncas, in the northern part of the state, which resulted in treaties with that tribe.

In these councils with the Indians, the change in the sovereignty over the territory and over them, was announced to the Indians, with which they expressed satisfaction and sent greetings to the Great Father at Washington. Presents were distributed among the Indians according to custom.

As early as 1808, a steamboat from St. Louis came up the Missouri river as far as the mouth of the Platte.

Three years afterwards, in 1811, a portion of Captain

Hunt's party, returning from an expedition to the Columbia river, embarked upon the northern branch of the Platte and descended to the Missouri. In the following year, a party belonging to the Pacific Fur Company, coming east with dispatches, sailed down the Platte as Captain Hunt's men had done.

Major Stephen H. Long, of the United States army, was sent up the Missouri river in 1819 to inquire into the condition of the Indians and the working of treaties. In the next year, he led an exploring party up the Platte to the junction of its two branches.

In the spring of 1832 Captain B. L. E. Booneville, of the regular army, left Fort Osage, on the Missonri river. with one hundred and ten soldiers, some hunters and trappers and a party of Delaware Indians. On June 2, he reached the Platte, about twenty-five miles below the head of Grand Island. By measurement he found the river to be two thousand and two hundred yards wide, and from three to five feet deep,-quicksand in the bed and cottonwood trees covering numerous islands. The party passed westward up the river, and passed the forks June 11. In a few days on ascending a high bluff "as far as the eye could reach, the country seemed absolutely blackened by innumerable herds" of buffaloes.

Col. Henry Dodge, of the United States army, left Ft. Leavenworth, in the latter part of May, 1835, with an expedition party for the Rocky Mountains. The party followed the western bank of the Missouri river nearly as far north as the month of the Platte. Then they followed the Platte to its source and returned by a southern route, by way of the Arkansas river. He camped a short time at Cottonwood Springs, afterwards Fort McPherson, in Lincoln county.

Fremont's expedition to the Rocky Mountains in 1842 passed through a portion of the state, entering it from Kansas, probably in Jefferson county, and passing through Kearney and up the Platte. When this party returned the following year, Fremont came down the Platte to Bellevue, where he broke up his party and sold his outfit.

## CHAPTER II.—THE INDIANS.

When Nebraska became a territory, in 1854, there were seven tribes of Indians having homes within its present boundaries. These were, the Omahas, the Pawnees, the Otoes, the Santees, the Winnebagoes, the Poncas and the Iowas. These numbered about ten thousand persons, and lived on reservations, or in villages, in the eastern portion of the state, along the Missouri and Platte rivers. In the north-western part of the state there were, in addition, several tribes of roving Indians with no fixed abode, who were very warlike, and of whom the more peaceable Indians of the reservations stood in constant fear. Indians from outside, from Dakota, Wyoming, Colorado and Western Kansas, often made incursions into the territory and committed devastation. Notably among these were the Cheyennes from Colorado, which was a very warlike and aggressive tribe, and the Arickarees of Dakota.

The Omahas numbered above a thousand and occupied lands along the Missouri river from the Platte to Fort Atkinson, the Council Bluffs of Lewis and Clarke, in Washington County, and extending about forty miles westward. This is a tribe of the great Dakota family which formerly occupied nearly all the lands of Dakota, Nebraska and Kansas. This tribe once resided farther north, probably in Minnesota. In 1780, it settled in

north-western Iowa, and soon afterwards migrated into Nebraska and settled near the mouth of the Niobrara, where Lewis and Clarke found it. The Sioux, who resided up towards the Black Hills, in Dakota, were the hereditary and mortal enemies of these Indians, and finally drove them easterly and southerly, down the Missouri River. In 1830 they reached the place already indicated and placed their head village at Bellevne. Missions were established among them in 1839 and in 1846, but with little apparent success. In 1854 the government purchased their lands and removed them to their reservation in the northern part of what is now Burt County, where 345,000 acres were reserved for their culture.

The Pawnees lived on the southern bank of the Platte river, with their chief village on the high bluff nearly opposite to the present city, Fremont. Their number was estimated to be between four thousand and five thous and. They are reputed to be related to the Illinois Indians, and Marquette found some bands of thetribe in his visit to that state. They have now been residents of Nebraska a century and a half. When they came to the state, they claimed and tried to occupy all the lands from the Platte to the Kansas rivers, and to the west as far as Kearney. In 1806 the best estimates placed their number at 6,223, divided into three villages. The Loup Indians were a band of this tribe, and were constantly at war with the Sioux; probably as often offensively as defensively. In 1832, the Pawnees sold their claims to the government, and entered upon a reservation at the mouth of the Loup river. They had two principal villages; one was at the entrance of Cedar creek into the Lonp, where Fullerton is now situated. The other village was probably on the bluff nearly opposite to the present site of Silver

Creek—although one authority places it on the Loup nearer Columbus, and Fremont places it thirty miles up the Platte river from the Loup. During their residence on the Loup, the Sioux from the north often attacked them, frequently invading their villages and burning their tepees, and killing women and children. Although the Pawnees have been accounted by some writers the bravest, most warlike and strongest tribe of Indians in Nebraska, they finally succumbed to the constant attacks of the Sioux, and moved off south to the Kansas river. In 1848, the Pawnees seem to have returned and taken up their residence on the southern bank of the Platte, with one village nearly across the river from Fremont and the other nearly across from Valley. In 1857, the government purchased their lands and gave to them the Loup country for their reservation. It would appear that they did not remove to their reservation until late in 1859, or 1860. Soon after their removal to their reservation, but at what date the authorities do not say, a fierce battle between the Sioux and Pawnees, on Wood river, near Kearney, severely crippled the Pawnees, who were defeated. During the war of the rebellion, they furnished warriors and scouts to the government in its operations against the Sioux Indians. In 1874, they sold their lands to the government and were moved to the Indian Territory.

The Otoes were located in the south-eastern portion of the state, between the Missouri and the Big Blue rivers, and numbered about one thousand people. Their head village was on the Missouri, below the present site of Nebraska City. This tribe belongs to the Dakota family, and are near of kin to the Missouri tribe with whom they were at one time united. The French knew them in 1673 as Attauka, and they called themselves Wahoobtahta. They had an earlier home near the head-waters of the Mississippi river, from which they emigrated about 1724, and settled upon the lands near the mouth of the great Nemaha, where they were found by the first white settlers of Nebraska. When Lewis and Clarke passed up the Missouri, they were occupying the bank of that river immediately north of the Platte. They abandoned that tract about 1820 and thereafter resided wholly south of the Platte. In 1854, they ceded their lands to the government and were removed to a reservation in the southern portion of Gage county. This reservation they afterwards sold to the government, and removed to the Indian Territory.

The Winnebagoes constituted a portion of the great Dakota family, and were placed upon a reservation which now embraces Thurston county.

The Santees were a branch of the Sioux family and held the country near the mouth of the Niobrara. While these Indians were warlike and brave, and as cruel as Indians need be, yet they were considered the most civilized of that great family.

The Poneas were related to the Omahas, and resided at a very early time upon the Red river of the north. They were continuously at war with some tribe of the Sioux, several of which tribes were their neighbors, until, failing to hold their own in the constant strife, they moved southward, crossed the Missouri river and built a fortified town on the Ponea river in Nebraska. Their constant strifes with the Sioux had greatly reduced their number and strength, but after the visit from Lewis and Clarke, resulting in the treaties of 1817 and 1825, they improved so rapidly that, in 1832, they numbered over seven hundred

and fifty. The government purchased their lands in 1851, but they seem to have been allowed to remain in Nebraska until 1865, when they were removed to their reservation in the angle formed by the confluence of the Missouri and Niobrara rivers. This reservation was then in Dakota but a large portion of it was transferred to the state of Nebraska. In 1877, these Indians were removed to the Indian Territory, but, two years afterwards, their chief and thirty others, becoming discontented and dissatisfied with that country, returned to Nebraska.

The Iowas are also a branch of the Dakota family. Marquette found them on the Des Moines river in 1673. In 1836, the government removed them to a reservation in the southern part of Richardson county.

The Sacs and Foxes have long been united as one tribe. They resided on the Mississippi river, near Fort Armstrong, near Galena, Illinois, in 1822. They were involved in the famous Blackhawk war, after which they sold out to the government and were removed to the Des Moines river in Iowa. Soon afterwards, they broke up into separate bands and scattered. One fragment remains in Iowa, one moved into the Indian Territory, one into Kansas, and another joined the Iowas on their reservation in Richardson county.

# CHAPTER III.—ANTE-TERRITORIAL DAYS.

The events and movements recorded above, pertained in large measure to countries and people outside of the territory of Nebraska. The influence of those movements and events had no direct pressure upon the history of Nebraska. Indirectly they advertised to the outside world the existence of the fertile plains, the well watered

valleys, and the mild climate of the state, and thus effected an earlier settlement of this region than would have been accomplished otherwise. But the actors in those movements and events were not Nebraskans; they did not come here for purposes of settlement; they were travelers, hunters or warriors drawn hither by other attractions than those of lands, climate or homes. This chapter will be devoted largely to events within the state before it was organized into a territory and to the early settlers during the same period of time. The period of exploration and travel continued many years after the period of actual settlement began.

The territory now called Nebraska was a part of the Louisiana purchase acquired in 1803. Later in the year the territory of Louisiana was organized. This comprised that portion of the purchase south of the 33d degree of latitude. That portion of the purchase north of this degree was attached, as District of Louisiana, to the territory of Indiana. Two years afterwards the whole purchase was re-united as the Territory of Louisiana. The territory of Missouri, embracing the present limits of Nebraska, was organized June 4, 1812. After the admission of Missouri in 1821, there were nearly twenty years in which there was no government other than that exercised through the army and the Indian agents in Nebraska. Then it was attached to Missouri for judicial jurisdiction.

The first settlement in the state which had about it any element of permanency was made at Bellevue, in 1810, by the American Fur Company. On that date, the company established its agency, with Francis de Roin its Indian trader. He was succeeded by Joseph Roubideux; he by John Cabonne in 1818, and he by Peter A. Sarpy

in 1824. In the meantime, in 1823, the government removed its Indian agency from Fort Calhoun to Bellevue. This town is reputed to have acquired its name from an exclamation of surprise and admiration uttered by Manuel Lisa who visited the place in 1805. Standing upon the height, probably not far from the present site of the college buildings, and viewing the magnificent panorama spread out before him, he is said to have exclaimed, belle vue, "beautiful scene." The exclamation was crystallized into a proper name and has clung to the place ever since.

In 1819, the United States army erected a fort near the present site of Ft. Calhoun, in Washington county and named it, Ft. Atkinson. Soon after, but we do not know at what date, the government established an Indian agency at the same place. This was the scene of the council which Captains Lewis and Clarke held with the Indians in 1804, and thus early acquired the name Council Bluffs. This Indian agency, as we have seen, was removed to Bellevue in 1823. The name of the fort was changed to Fort Calhoun, and was abandoned in June, 1827.

Between the years 1825 and 1828, one J. B. Royce had a trading house on the plateau near Omaha.

In 1826, Col. John B. Boulware made a settlement near Ft. Calhoun. How long he remained, and what was the nature of his business there, we are not informed. In 1852 he is found at Nebraska City where he established a ferry and was found by the earliest historic settlers of that place.

Taking events in the order of time, the next record relates to the Indians alone. The Sioux and Pawnees were inveterate enemies, and the same enmity existed with less intensity between the allies of each. In 1832,

the year in which Captain Booneville made his journey through the central and western portions of the state, the armies of these hostile aborigines met somewhere within the present boundaries of Richardson county. The number of warriors engaged is said to have been about sixteen thousand. The battle raged during three days (and nights), at the end of which the Sioux and their allies withdrew, having lost three thousand braves of which number seven hundred were prisoners, whom the Pawnees burned with the usual Indian cruelty. The Pawnees and allies lost two thousand. The Sioux confederates were led by Oconomowoe, and the Pawnee confederates by Tacpohana; both able, crafty, and experienced fighters. The result of this battle placed the Pawnees, for many years, masters of the country.

The Omahas, Otoes, Pawnees and Pottawattomies were included within the jurisdiction of the Indian agency at Bellevue. In 1834, Rev. Moses Merrill, a Baptist missionary to the Otoes, arrived at Bellevue and erected a mission house. He died the following year and the mission house was afterwards burned. Later in the same year, 1834, Samuel Allis and Rev. John Dunbar, under the direction of the Presbyterian board of missions, came to Bellevue to do missionary work. Mr. Allis soon afterwards opened a school among the Pawnees, in their village at the mouth of Council creek. Mr. Dunbar accompanied another branch of the Pawnees, in Nance county, called the Grand Pawnees, to a village further south. The difficulties and dangers of their positions there, on account of the continued hostility of the Sioux, compelled them to abandon the schools two years later and to return to Bellevue. In 1837 or 8, Rev. Samuel Curtis and wife came to Bellevue, to succeed Rev. Moses

Merrill. They went to Blackbird Hills, where the Omahas then were, but he remained but about a year. In the same year, a missionary and wife went among the Poncas in the northern part of the state.

At a very early date in 1833 or 4, Baptiste Roy had a trading house in Sarpy county, near the mouth of the Papillion. Father De Smet says that in 1839, Mr. Cabanne had a trading post ten miles above Omaha, and that Manuel Kisa had a post one mile above Cabanne's.

In 1843, (or 1845, the authorities differ) the Sioux made an attack upon the Pawnee village on the Loup, where Mr. Allis was teacher. The Sioux would rush down from the high bluff near the village, set fire to some tepees, kill a few Pawnees, and steal a few horses, and then retreat. The Pawnees fought desperately and were enabled to prevent the destruction of the whole village, though they lost many tepees and warriors. The Sioux lost many warriors also, but as they carried their dead away, according to the custom of all Indians, the extent of their loss could not be ascertained.

The first celebration of the Fourth of July within the state seems to have occurred at the Pawnee village on the Loup, on the site where Fullerton now stands, in 1844. The teachers of the several Pawnee schools, on Willow (now Cedar), Council and Plum creeks, met on the bluffs named and held an old-fashioned picnic celebration. The details of this event are worth being recorded at length as given by Mrs. Platt. "We of Plum creek were off very early in the morning for a ride to Willow Creek settlement, five miles away, where we were to breakfast with our friends, the Mathers, Mr. Mather, Sr., being superintendent of the farms. Five children belonging to the different mission families were my pupils

for that season. These were fitted with regalia, and Henry M. Allis was banner bearer for the occasion. Our point of rendezvous was Cedar Bluffs, a height overlooking the Willow (Cedar), where Fullerton, Nance county, now stands. The young men of our party, with the aid of two Indian boys who accompanied us, built a bower of cedar branches from the trees near by. Our banner was planted on the edge of the precipice, two hundred feet from the water below, and our little company gave themselves up to the enjoyments of the hour, feasting our eyes on the wondrons beauty of the landscape before us. Blessed above most county seats is that of Nance county for views of delight. After an hour or two spent in rambling and chatting, our company was called to seats under the bower, where was spread a collation very inviting to hungry wanderers. Before eating we had a short exercise, and though I do not find it recorded in my journal, I have the impression that L. W. Pratt read the Declaration of Independence, and that Mr. James Mather gave a short oration. During the exercises, America and an original poem were snng, prayer was offered, and before partaking of the feast the blessing of Almighty God was invoked by Mr. Allis. On our return home the large residue of our feast was left at the Indian village for the old and infirm, who were unable to go on the hunt."

The government built a fort on the present site of Nebraska City in 1844, and named it Fort Kearney. Two years later, May 19, 1846, congress directed that a fort be built on the Platte. The troops to build and to hold it were sent from Fort Leavenworth, under Lient.-Col. Powell, late in 1847. They reached the month of Table creek, near the present site of Nebraska City, in Sep-

tember, and encamped for the winter. In April, 1848, the troops marched westward and built a fort just south of the Platte river, giving to it the name Fort Childs. In December of that year, the war department changed the name to Kearney, in honor of Gen. Stephen W. Kearney, then lately deceased. The fort did good service during the emigration to California and during the various Indian excitements on the frontier. It was abandoned in 1871. When the new Fort Kearney on the Platte was erected, the fort of that name on the Missouri was abandoned. Soon afterwards, the American Fur Company occupied the site of the old fort and established a post there. A mission school was established and a building erected at Bellevue in 1857, and Mr. D. E. Reed came out to superintend the school. As the Council Bluffs Indian agency had been removed to Bellevue, the name came with it, and Bellevue is often called Council Bluffs.

Beginning with 1845, Mormon bands came into the state, and made settlements in various places. In the year named, if not earlier, a settlement was made in Washington county, near DeSoto. They established at Florence what they called their "Winter Quarters." In 1847 the Ponca Indians complained to the government that a band of Mormons, which seems to have settled in the north-eastern part of the state a year or more before that date, was destroying the game and timber which belonged to the Indians. The government sent a force and compelled the Mormons to leave. Omaha, Plattsmouth and Fort Calhoun were held by the Mormons as temporary stopping places, while the leaders were deciding upon the place for a permanent location. They established a ferry at Plattsmouth in 1848.

Omaha was evidently named before 1846, for on July

28, of that year, the Omaha Arrow began to be issued. J. W. Pattison was the editor and J. E. Johnson business manager. We are not told the religious convictions of the editor, but the business manager is reported to have been a Mormon. The field for such a paper must have been very limited and its support quite indifferent, for, at best, there were but few settlers in the state beside Mormons. The paper ran twelve weeks only.

Nebraska lay directly in the path of the thonsands who flocked overland across the continent to the newly discovered gold fields of California. They crossed the Missouri river at Omaha, Bellevue, Plattsmouth and Nebraska City, in Nebraska, following the Platte river from their various points of reaching it. Others crossed the Missouri at St. Joseph and at Leavenworth, and passed north-westerly up the Little Blue and joined the northern stream of emigrants at Kearney. All these gold hunters were enamored with the beauty and fertility of the valleys and prairies of Nebraska, and were the means of spreading its praises to all their friends in the east.

A creek in Dodge county is said to have received its name about this time in 1849. A party on its way to California was passing up the creek when it passed near some Indian women and children. One young man in the party, either through some inherited hatred for the Indians, or in a spirit of reckless sport, shot one of the Indian women. After the party had encamped for the night, a large party of Indians rode up to the camp and demanded the man who had killed the Indian woman. The Indians were more numerous than the whites and the latter therefore had no other alternative than to comply. The Indians took the young man to a short distance from

the camp and proceeded to flay him alive. The stream thereafter was known as Rawhide creek.

In 1850 the government established a military road from Fort Leavenworth, Kansas, to Fort Kearney, affording easy communication between the two points and greatly aiding the gold hunters who were moving westward.

In 1851, two hunters and prospectors, Archibald MacKenzie and one Loper, went along the southern bank of the Missouri river as far west as the mouth of the Niobrara river. They report that in the Bow Valley a vast herd of buffaloes extended from bluff to bluff. They also found several veins of coal which did not appear to be valuable. Not far from Ionia, they dug into the sand of the Missouri river and found minute scales of gold. They gathered a small buckskin bag full and sold their find in Chicago for forty dollars.

Early in 1851 the Nebraska Postoffice was established at Bellevue, but the name was changed soon afterwards to Council Bluffs Postoffice. In the following year, 1852, a town-site company made a preliminary survey and location for the town, Bellevue, but the final location was not effected until 1854. Maj. Barrows and Col. Decatur were members of the town site company. As soon as this final action was taken, settlers crowded into the new town. In the same year, 1852, the department established a postoffice at Nebraska City, with J. B. Boulware postmaster.

As early as 1851 or 1852, William D. Brown, on his way to California, observed the demand for ferriage across the Missouri, stopped and established a ferry between what are now Council Bluffs and Omaha. In 1853 he took up a claim in Nebraska, the first one it is said in the

state. A postoffice was established at Omaha May 6, 1854, and the Fourth of July was celebrated in the infant settlement.

We have said that the emigrants to California advertised the resources and advantages of Nebraska. The result of their work in this direction became quite marked in 1853. Heretofore a trading post had been established here and there, and a few individuals had come into this land for a permanent residence. Yet up to 1853, the number of actual residents was quite small. A start at Nebraska City had already been made by Col. J. B. Boulware and others. In this year E. H. Cowles, H. P. Downs and another named Green formed a company for building a town. Downs had been in the regular army and was in charge of the old fort. About the same time Enos Lowe and others, of Council Bluffs, put in a new ferry boat between that town and Omaha. The same parties soon after bought land in Nebraska and laid out the town of Omaha. In the spring of the same year, Samuel Martin, James O'Neill and others built a house and opened a trading post at Plattsmouth. There are records showing that as early as May of this year, there was a ferry across the Elkhorn on the California trail, and another across the Loup. The ferryman at the Loup bore the distinguished name, Commodore Decatur. A settlement was also made at St. Deroin, in Nemaha county, during the same year.\*

<sup>\*</sup>Mrs. McMurphy was one of a party of emigrapts which passed westward, up the valley of the Platte. in 1853. Under date of June 4, 1853, she wrote in her diary as follows: "This Nebraska is a miserable, unpleasant place, indeed, and can never be inhabited except by red men of the forest (prairie); the climate is very cold and it is almost impossible even for the grass to grow." Shortly afterwards, when the improved weather had wrought an improvement of her sensibilities, and she had gone further west, she added: "It is improving in appearance as the weather grows warmer; the soil is fine and will probably be inhabited by a civilized race in time." Evidently that concluding phrase expresses a weakness in her newly awakened faith.

In the early part of the year, Rev. William Hamilton arrived at Bellevue, having been assigned to the Presbyterian mission among the Omahas and Otoes.

The first settlers at the places named above had been followed by others until there were, at the close of 1853, many settlers along the Missouri and Platte rivers. addition to the actual settlers, in the closing months of this year, all the trading posts and all the places of settlement were crowded by land-hunters and homehunters. While not actually and legally residents here, they felt an interest in the prosperity of the growing commonwealth. During the autumn, several meetings were held at various places, for putting in motion some machinery that would have the semblance of a legal government. All who were west of the Missouri participated in those meetings, at the same time that many restless spirits in Iowa and Missouri came across the river to aid the movement. At the meeting at Bellevue, which assumed with good reason to be the capital of the new empire, an election was held for a delegate to congress and for state officers. The election resulted as follows: Delegate to Congress, Hadley D. Johnson....358 votes. Governor, William Hamilton.....304 Secretary of State, Monson H. Clark......295 Treasurer, H. P. Downs.......283

It does not appear that the voters at Bellevue knew or cared whether elections were held in other parts of the embryo territory.

At the opening of congress, in December, Hadley D. Johnson, who was an actual resident of Iowa, if the records are correct, went on to Washington to labor with Congress for a territorial government. Upon his arrival he found a Rev. Thomas Johnson already on the ground,

claiming to have been elected a delegate at an election held in some other part of the country, by 337 votes. He had already introduced himself to congressmen, and had obtained an honorary seat in the house. At first, the two Johnsons seemed inclined to antagonize each other, but they soon came to a friendly understanding and thereafter worked harmoniously, materially aiding in the passage of the bill which gave a territorial government to Nebraska. They had some decided differences of opinion or interest in the matter of the southern boundary, but they compromised upon the fortieth degree of latitude.

While the two Johnsons were in Washington in the interest of a territorial government, in the winter of 1853 and '54, a convention was held in St. Joseph, Mo., for the purpose of formulating a memorial to the president and to congress in regard to extinguishing the Indian titles to lands in Nebraska, to opening the country to settlement and in regard to a territorial organization. There were delegates, (self appointed, probably,) from Iowa and Missouri, as well as from Nebraska. The chairman of the committee on resolutions was Charles F. Holley, of Nebraska City. The pro-slavery men in the convention were trying to have the following resolution passed:

"Resolved; That the emigrants in the territory ought to have the same protection to property that they enjoyed in the states from which they emigrated."

The only contest in the convention was over this resolution. The committee, evenly divided, played at "mock congress from dusky eve until dewy morn," when they compromised by suppressing the whole subject. Thus the anti-slavery sentiment gained a slight victory, a precursor of that greater victory which it won on the bloody fields of Kansas, and upon those broader fields reddened by patriot blood from 1861 to 1865.

In September, 1853, the commissioner of Indian affairs visited the Omahas and induced that tribe to sell their title to the government. The chiefs went on to Washington and the treaty was signed March 16, 1854, by which about one fourth of the territory was opened to settlement.

Early in 1854, a preliminary treaty was made with the Otoes for a cession of their lands to the government. The government ratified the treaty June 24, 1854, and thus threw the south-eastern portion of the territory open to settlement.

During the year 1854, settlers and land-hunters continued to crowd across the Missouri river, opening up new points or joining those who had crossed before them. Cass county is said to have received its first bona fide farmer in the person of Hon. R. O. Horbach, who crossed the Missouri river May 30, 1854, and took up his land for a home. In April, the same year, Anselm Arnold settled at Fort Calhoun; George W. Nevelle and Dr. William Moore came with Arnold's family early in October; a German family named Leiser reached the same place October 21st; Elam Clark settled there during the same year. In the meantime Bird B. Chapman, then unknown to the fame which he afterwards won, began the publication of the Omaha Nebraskian, which became the Herald in 1865.

Meanwhile, the efforts of friends, inside and outside of the territory, were successful, and President Pierce signed the bill organizing the twin territories, Kansas and Nebraska, May 30, 1854.

## CHAPTER IV.—TERRITORIAL DAYS.

The land which we are considering now has become an organized entity. From a community without law, the settlers find themselves transformed into citizens under the law. The tract included in the new territory embraced all the land within the following limits: starting in the Missouri river on the fortieth parallel of latitude, thence west to the eastern boundary of Utah on the summit of the Rocky Mountains, thence on said summit to the present northern boundary of the United States, thence east to the western boundary of Minnesota, thence southward to the Missouri river, and down that river to the fortieth parallel of latitude. It contained, by a rough estimate, nearly 352,000 square miles of territory.

By the organic act, the officers were to consist of a governor, secretary, three judges, a marshal, a district attorney and a legislature, consisting of a council of thirteen members, and a house of representatives of twenty-six members. The governor was authorized to cause a census of the territory to be taken and a legislature to be elected. In the meantime the governor was directed to establish the seat of government until the legislature should be in session, when he and the legislature should establish it for the future. Following is a list of the territorial officers appointed by President Pierce:

Governor, Francis Burt, of South Carolina.

Secretary, Thomas B. Cuming, of Iowa.

Chief Justice, Fenner Ferguson, of Michigan.

Associate Justice, James Bradley, of Indiana.

"Edward R. Harden, of Georgia.

Marshal, Mark W. Izzard, of Arkansas.

Attorney, Experience Estabrook, of Wisconsin.

Governor Burt reached Bellevue, then the seat of business and of politics in the territory, October 7th, and took the oath of office on the 16th. He was ill when he arrived. The cares and worry incident to his office quickened the activity of his disease, and he died on the 18th. Upon his death, the secretary, Thomas B. Cuming, became acting-governor and continued so to act until the arrival of Mark W. Izzard, of Arkansas, who was appointed to succeed Governor Burt.

Governor Cuming caused a census to be taken of the inhabitants of the territory, during October and November. There is no doubt that a large majority of the people within the territory were speculators and not actual residents, but all were enumerated by the censustakers, swelling the census to 2,732. The governor divided the territory into eight counties and apportioned members of the legislature among them. The names of the counties were: Burt, Cass, Dodge, Douglas, Forney (now Nemaha), Pierce (now Otoe), Richardson and Washington.

The seat of government was located at Omaha, an election for members of the legislature called for December 12, 1854, and a session of the legislature at Omaha January 16, 1855. The election was probably about as illegal as was the census. Votes were cast in many places where there were no actual residents, by men who came across the Missouri river for the single purpose of voting. The slave-holders of Missouri and the pro-slavery men of Iowa were interested in the election of a legislature in Nebraska that should not pro-hibit slavery, even if it did not authorize it. At the same election eight hundred votes were cast for territorial delegate, and Napoleon P. Giddings was elected.

During the year, 1854, the territory gained wonderfully in population and wealth. Upon the extinguishment of the Indian title to lands south of the Platte, a rush was made across the Missouri river by speculators and homehunters. Although a territorial government had been provided, it had not yet begun to be operative. territorial officers did not arrive until October. In the absence of the legally appointed officers, there was no security to persons or property except such as could be enforced by the spontaneous, voluntary effort of the settlers. Claim-jumpers were common nuisances and the only method for the disposal of their was by "club-law." The claimants of lands formed themselves into clubs, pledged to defend each other against speculators. It was often difficult to determine who were actual, and who factitious, claimants of the public domain; hence, it occasionally happened that the majority of a club would be speculators. When such was the case, the honest settler had no rights which the club was bound to respect. The enforcement of club-law, with all its uncertainties, constituted exciting epochs in the history of several counties.

Settlements had already been made, as we have learned, in the counties of Washington, Douglas, Sarpy, Cass, Otoe and Nemaha. During this summer, additions were made to the number of settlers in those counties. On the 29th of August, 1854, Richard Brown settled upon the present site of Brownville, which town was named for its pioneer. In the same year, Rev. Joel M. Wood preached the first sermon there, and afterwards organized a church society in the town. Very soon afterwards, in July, 1855, H. S. Thorpe opened the first school in Brownville, although the school district was not organized until

1856. In the year 1855 a ferry boat was put on the river and the town site of Brownville laid off. In the next year, Robert W. Furnas, afterwards governor of the state, began the publication of the Brownville Advertiser —the first number having been issued June 7, 1856. From the first, Brownville furnished a landing for steamboats, and began a course of commercial prosperity and industrial development that continued until the railroad supplanted the waterway. Its trade extended, for many years, to the frontier settlements west of the Missouri river, as far as the Little Blue in the south-eastern part of the state. In 1856, less than two years after Richard Brown discovered it, it had two large general stores, a steam saw-mill, a lath and shingle mill, a cabinet shop, two blacksmith shops, a bank, a hotel, a school house, a court house, and many boarding houses and livery barns. Many other towns in the state grew as rapidly and as substantially as Brownville did.

In the fall of 1854, W. A. Maddox, J. A. Singleton, and Messrs Hare and Roberts took up claims in Richardson county, near Salem, and built cabins upon their claims. In the spring of 1855, they returned with their families and began life in Nebraska as farmers. About the same time a settlement was made on Half-Breed creek, in the north-eastern portion of the same county.

In the summer of 1854, the Nebraska Colonization Society was organized at Quincy, Illinois. In July, the committee appointed for that purpose, located the colony in Dodge county, and called the place Fontenelle, in honor of Logan Fontenelle, a half-breed Indian of high character. Most of the first settlers were Baptists, and they adopted measures to secure their religious denomination in the fruits of their enterprise. At their request,

the first territorial legislature incorporated The Nebraska University, at Fontenelle. Under this charter, a school was started at Fontenelle, land donated for the college, and building erected. For some reason unknown, the immigration of Baptists was discontinued, and the Congregational society stepped in and eventually gathered the harvest for which the Baptists had sowed the seed.

Nebraska city was laid out in 1854, and so rapidly did it grow, that in 1858 it contained twenty-five stores and six church organizations. The *Nebraska News* was issued April 12, 1855, by Thomas Morton & Co. In January, 1858, by act of the legislature, the three town sites, Nebraska City, South Nebraska City, and Kearney City, (the site of old Fort Kearney), were consolidated into Nebraska City.

While Bellevue was laid out in 1854, it established a city government as early as May, 1856, and cast five hundred votes at the fall election in 1857. Mr. D. E. Reed, the first school teacher at Bellevue, was chairman of the meeting that celebrated the Fourth of July, 1854, and he began the publication of the Nebraska Palladium, at Bellevue, July 15, thereafter.

During 1855, many settlers came into Nebraska and made homes near the older settlements. There seem to have been but few new settlements opened. The struggle that had begun upon the plains of Kansas, to determine its status as a state, whether with slaves or without them, so attracted the earnest attention of the people east of the Missouri river that a less number gave heed to the stories of rich soil and grateful climate north of Kansas. The great mass, swayed by considerations of patriotism, or other sentiments, cast their lot into the turmoil and strife of that state. John Brown was one of the central figures

in the excitements of the hour. It was during the year 1855, that he surveyed and located a section of the "underground railroad," connecting Kansas with Iowa. Its three stations were Falls City, Nemaha City and Nebraska City. That the road was well patronized during the next five years is abundantly proven, and many stories are told of hair-breadth escapes, in which whites and blacks and officers of the general government played conspicuous parts.

In the meantime, some disturbance occurred among the Indians in the great northwest, in the western portion of the present Dakotas. As usual, the ripples of such disturbances reached out to the outer limits of the Indian The settlers of Nebraska felt the influence settlements. of that disturbance in June, 1855. Upon a Saturday of that month, a Mr. Porter and wife, and a Mr. George Demaree, of Fontenelle, had been breaking prairie on Bell creek, now in Washington county. As a sudden storm prevented their return to Fontenelle that evening, they encamped for the night. On Sunday morning, hearing reports of guns, which they presumed to be made by hunters from Fontenelle, they approached the place of the firing and found a large band of Sioux Indians. One brave rode up and took off Demaree's hat. started toward his wagon for his rifle when another Indian rode up and shot at him; the bullet pierced the head of Mr. Demaree and also the breast of Mr. Porter, who happened to be in range. Mrs. Porter sped to Fontenelle and raised the alarm. The Indians followed Mrs. Porter, but when they saw the preparations made by the settlers for their reception, they rode away. The bodies of Porter and Demaree were brought in, when it was found that the Indians had neglected to scalp Porter. Governor Izzard sent thirty men to Fontenelle for the assistance of the settlers. With this addition, the settlers were not able to raise over sixty men, and thus did not feel strong enough to follow the Indians. About this time a party of Sioux Indians fell in with a party of hunters and killed Logan Fontenelle, who had strayed from his party a short distance.

In connection with the Indian disturbances of the northwest, the general government sent an expedition in two divisions into that section known as the Big Powder Country. One expedition went in boats up the Missouri river to Fort Pierre, and thence overland. Quite a number of the young men of Omaha accompanied this expedition; among them was Dr. George L. Miller, who went as surgeon. This portion of the expedition does not seem to have done anything that is directly connected with the history of Nebraska.

The other section was under the command of General W. S. Harney, and consisted of six companies of infantry of the regular army. This force left Fort Riley, on the Kansas river, in August, 1855, traversed the valley of the Little Blue to Fort Kearney, and thence up the north branch of the Platte. They found a trader at O'Fallon's Bluff, another at Old Julesburg, and another one five miles north of Old Julesburg. A writer who accompanied this force says that for a distance of two hundred or three hundred miles on the route to Julesburg not a tree was seen.

The force reached the north branch of the Platte at Ash Hollow, in Deuel county. Here they crossed the river and met a party of Indians not far from the Blue, or Brule river, on which the Indians had their camp. These Indians had stopped a wagon train here. Gen. Harney attacked the Indians and completely defeated them, losing thirteen men, while the Indian loss was one hundred and twenty-six, besides prisoners and their camp. The soldiers encamped one day and night at Court House Rock, in Cheyenne county, and were attacked by an army of grass-hoppers,—the writer before quoted says that the air was so full of them as they arrived that one could hardly see the sun; that when they alighted, the ground was covered to an inch in depth, and that before night not a spear of grass was left for the animals of the trains.

During 1856, settlers came into Nebraska in greater multitudes than in any previous year. The old settlements received large additions, and many new settlements were opened. In the summer, Benjamin B. Morse and family settled at Catharine, or Dead Timber, in Cuming county, near the Elkhorn. During the following winter the valley swarmed with game, and Mr. Morse and sons killed seventy deer, elk and antelope with axes for their only weapons. Later in the year, Joseph Stambaugh and family located a few miles west of Ashland, in Saunders county. The experience of this family reminds one of the experience of the early settlers in New England: "Scarcely were they settled upon their purchase ere they were compelled to leave it and seek protection and shelter among the settlers of Cass county. Their first house was burned by the red fiends." In the following spring they built another house, and during the year 1857 enough neighbors came around them to afford a sense of security.

Early in 1856, Harry Huddleson opened a claim on Bazile creek, in Knox county. Soon afterward, D. C. Beam, B. Y. Shelley and others came to the mouth of

the Niobrara, where they found R. R. Cowan and James Small already ahead of them, among a band of Indians. On the way to Niobrara this party found a colony of Irish Catholics comfortably settled in the Dakota bottom, near St. Johns, in Dakota county. How long a time the colony had been located is not stated. The Indians at the mouth of the Niobrara did not take kindly to their new neighbors. In the following winter they burned all the improvements which the whites had made, under the instigation of the French interpreter among them. They annoyed the settlers and destroyed their stock until they were removed to their reservation, north of the Niobrara.

In this year two permanent settlements were made in Platte county. One was made by Isaac Albertson and E. W. Toncray on Shell creek, near the Platte river, and was named Buchanan. The other was made at Columbus, the town site of which was marked off May 28, 1856. Before the year closed there were twenty-seven settlers at Columbus. During the early summer, Rev. Reuben Gaylord started a private school in the interest of the Congregational church at Fontenelle. This school grew into a sort of seminary, and was merged into Nebraska University of Fontenelle, and thence into Doane College at Crete.

As in most of the preceding years, a speck of an Indian trouble appeared to disturb the prosperity of the settlers. The Pawnee villages were south of the Platte, but these Indians evidently claimed the land on the northern side of the river. On October 6, the Indians sent a delegation to the few settlers near Fremont to inform them that they must leave within three days. The settlers at once sent a messenger to Omaha to advise Governor Izzard of the state of affairs. The governor sent two boxes of

army muskets and fourteen men to the help of the settlers. The army at Fremont even then numbered only twenty-two fighting men, but they were brave. They built a fort, appointed guards, displayed their guns and defied the Indians, but concealed the excessive smallness of their force. After the third day the Indians sent word that they had reconsidered their demand and would not molest the settlers. We are not informed whether the display of bravery or an over-estimate of the size of the Fremont army caused the Indians to withdraw the declaration of war.

Settlements had already been made in Johnson county, and in this year John Maulding laid out the town of Tecumseh. The early experience of the town was not one of prosperity, for, at the outbreak of the rebellion in 1861, the town contained barely one hundred people. In the meantime, some Mormons settled at Genoa, but the government drove them away at the request of the Indians, in whose reservation Genoa was situated.

A settlement was made at DeWitt, about eight miles north-east of West Point, in 1857. Soon afterwards, Uriah Bruner and others came into Cuming county. Early in the same year a settlement was made at Blue Springs, Gage county, by James H. Johnson, Jacob Poff and others. Soon after, later in the summer, a party from St. Louis located on the beautiful elevation where Beatrice now stands, and named the place for the daughter of Judge John F. Kinney, one of the party. Gage county was organized in July of the same year, and cast thirty-three votes at the election for county seat, July 16. A few settlers, among them C. C. Van and James Hay, took up claims at St. James, in Cedar county. In the

following spring, others located at St. Helena and Waucapona and at other places in the county.

In October of this year, 1857, the first association of Congregational churches was held. The association consisted of the churches at Fontenelle, Fremont and Omaha. The subject of higher education was one topic of consideration. In February following, the Nebraska university of Fontenelle was formally transferred to the Congregational association. Lands were donated, a building erected and an endowment begun to be collected. The university struggled against the current of adverse circumstances. The stream of migration had left the road leading to Fontenelle, and the county seat, once the pride and and promise of Fontenelle, had gone to Fremont, and Fontenelle itself set off into Washington county, near whose western boundary it became a frontier town.

In February, 1857, the whites attacked a band of Indians near Eight Mile Grove, in Cass county. One Indian was wounded and three captured, and fifteen ponies were also captured. In a few days one hundred Indians came to Plattsmouth and demanded the captured men and ponies, which were cheerfully delivered. There was no provocation for this attack, so far as it can be learned.

Another newspaper was established at Omaha during this year called the Omaha Weekly *Times*. Its first issue appeared June 11.

In the year 1852, a faint and uncertain rumor flew over the land to the effect that gold had been discovered at the mouth of Clear creek (near Denver). Very little attention was given to the rumor on account of its faintness, and because the clamorous calls from the gold fields of California were yet reverberating through the air. Early in 1858, however, another prospector verified the early rumor. By November, there were not less than four hundred gold hunters on Clear creek. Denver was soon laid out as a town, and the crowds continued to arrive. The gold hunters from the northern states mostly traversed the plains of Nebraska, either along the Platte, or on the divide between the Platte and Little Blue, and along the Republican. This flood of emigrants left a great deal of money in the territory, and often an emigrant would become disheartened, drop out from the stream, and become a settler in Nebraska. A whole party of discouraged gold hunters took themselves out of the stream, at West Mills, Seward county, in 1859, and laid the foundation of that settlement of prosperous farmers on the West Blue. In the following year, settlements were made at Milford and Seward and one just below Milford, on the West Blue, in Saline county.

Nebraska did not escape the depressing effects of the financial revulsion of 1857-8. The early legislatures of the territory incorporated a greater number of banks than the demands of business justified. In 1855, the Western Fire and Marine Insurance and Exchange Company, was incorporated. Though nominally an insurance company, it was in fact a bank. In 1856, the legislature gave life to the Platte Valley Bank of Nebraska City; the Fontenelle Bank of Bellevue; the Bank of Florence; the State Bank of Nebraska, at Omaha; and the Nemaha Valley Bank, at Brownville; the Bank of DeSota and the Bank of Tekamah were incorporated early in the following year. There seemed to be very little restrictions in respect to the amount of currency that might be issued, and the other safeguards of prudence were not thrown around the operations of the banks. As a result, the panic of

1857 found nearly all the banks named above unprepared. The bank of Nebraska City was the only one that stood up under the storm. Of course the people suffered extremely by these failures, for nearly all the currency used in the territory was furnished by these banks.

One of the most noted Indian troubles in the territory occurred in 1859, and was known as the "Pawnee War." It was not a very bloody war, but it excited a great deal of interest among the settlers north of the Platte. Its details have been written at length by several participants in its movements, but its salient points may be stated in a few paragraphs.

Several years before this, the Sioux had fallen upon the Pawnees, at their village on the southern bank of the Platte, had slain a large number of the warriors, women and children, and had driven off a portion of their stock. In 1858, twelve bucks of the Pawnees went from their camp near Fremont, into the Sioux country for revenge. The Sioux ambushed them, and killed all but one. Him they sent home, with ears slit and his body otherwise scarified, to report the result of the attempt at revenge. The Pawnees do not seem to have made any sign until June, 1859, when, the Sioux again menacing them, they moved northward in force, after having made an alliance with the Omahas, who were to join the Pawnees on the Elkhorn river. On the 29th of June, the Pawnees encamped on Cuming creek in Dodge county, and made a raid upon the stock farm of Capt. Thomas S. Park, and drove off stock valued at twelve hundred dollars. In passing up the valley of the Elkhorn, the Indians continued their depredations, taking cattle and other food-supplies. They do not seem to have tried to destroy other property, nor to have molested the settlers otherwise.

The settlers were shortly aroused, and Governor Black sent a volunteer force of twenty-five men to help them. The united force overtook the Indians at DeWitt, and a skirmish ensued. Three Indians were killed, and Dr. Peters was wounded. Gen. John M. Thayer with a small volunteer force soon reached Fontenelle. In the meantime, a company of forty men was raised at Fremont, with Capt. R. W. Hazen in command. This company joined Gen. Thayer's force at Maple creek, on the 5th of July. On the next day a short distance beyond, they were joined by Governor Black with more volunteers and some U. S. troops. The whole force now numbered about two hundred men.

The white troops soon came up with the Omaha Indians, who were friendly. An arrangement was then made by which the Omahas were to abandon the Pawnees and to guide the troops to the Pawnee camp. Early on the morning of the 6th, they reached the camp of the Pawnees, situate on Battle creek, in Madison county. It is said that the railroad station is now situate on the spot of that camp. When the Indians discovered the approach of the white troops, an Indian chief came riding up and a sergeant shot at him with a pistol, but did no injury. The chief then threw away his bow and arrows and exclaimed: "Me no fight." Another chief displayed the American flag in the camp. A parley then ensued. The Indians did not deny the depredation which they had committed, but pleaded the necessities of war and their own poverty. After the parley, they delivered up the six who had been most prominent in the depredations. One of these had been wounded, and afterwards died. The other five escaped before the volunteers reached home.

Thus was terminated, with very little bloodshed, but with great expense to the territory, what at first promised to be a very ugly phase of Indian strife.

The subject of slavery, in its connection with the history of Nebraska, has an importance that justifies the presentation of the entire subject together, out of its order of time.

The provision of the organic act concerning slaves and slavery was in these words: "It being the true intent and meaning of this act not to legislate slavery into any territory or state, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the constitution of the United States."

As a consequence of the neutral position assumed by the general government upon this question, it would seem that legislation in respect to slavery in the territory came within the jurisdiction of the territorial legislature as much as did any other subject of local law. Many of the territorial officers brought slaves into the territory, and in many other instances there were known to be persons held as slaves in the territory before the legislature had taken any action in the matter. The pro-slavery men took the first action on the subject. On February 9, 1857, a bill was read a first time in the senate providing that "no free negro or mulatto shall be permitted to emigrate to, or to take up his abode in this territory," and imposing a fine of ten dollars and imprisonment. The fate of the bill is not recorded, but, not long afterwards, a bill from the house covering the same subject was tabled by the senate.

Until after this event, there had been no distinctively partisan politics in the territory. Early in June, 1858,

there was a formal organization of the democratic party, which was as inharmonious as the party in the states. The republicans began a formative organization late in October; but no general organization was effected until August, 1859. The slavery question was the subject of contention between the two parties, and the quantity of authority which the people of the territories could exercise over slavery was the cause of trouble in the democratic party. The Douglas democrats eventually followed the republicans, leaving the organization of the democratic party in the hands of those who held with President Buchanan that slavery existed in Nebraska without any action on the part of the people.

The republican leaders determined to force the issue of slavery to the front, so that the political standing of all prominent men might be known. Accordingly, on November 1, 1858, Samuel G. Daily presented "a bill for an act to abolish slavery in the territory of Nebraska." The committee to whom the bill was referred presented majority and minority reports. The minority report denied the existence of slavery in the territory in "any practical form;" denied that slavery could exist here except in accordance to "affirmative legislation," and criticised the bill as unwise and unpatriotic. Both reports were tabled, and the bill died without action.

The subject continued to agitate the public mind, and, at the next session, December 7, 1859, William H. Taylor presented another bill of the same character to the senate, and T. M. Marquette, a duplicate to the house. Nothing was done with the bill in the senate; but the house passed Marquette's bill. In attacking the bill, Dr. George L. Miller denied that practical slavery existed in the territory. In the senate, a joint resolution, denying

that there was danger that slavery would enter the territory, asserting the right of the legislature to act in the matter of slavery, and pledging the legislature to oppose the agitation of the question, was adopted by both houses January 3, 1860. Governor Black vetoed the resolutions on the ground, that under the treaty by which Louisiana was acquired, slavery could not be prohibited in the territory. During the same session, Mr. Nuckolls, of Richardson county, presented a bill prohibiting the immigration of free negroes into the territory. The Donglas democrats united with the republicans in killing the bill.

Let us pause to consider a few facts in regard to the existence of "practical slavery" in the territory. During the summer of 1860, a colored woman named Eliza, held by Mr. Nuckolls of Nebraska City, as a slave, escaped from Nebraska and was captured in Chicago. A mob of whites and blacks rescued her, and the affair terminated in a law suit known as the "Chicago rescue case." During this year, there were several suits in Iowa courts growing out of attempts of slaves in Nebraska to escape. In one case, a citizen of Nebraska, in pursuit of a runaway slave, had broken into the house of a citizen of Iowa to search for the fugitive. Nebraska City is said to have lost some of its trade by reason of the disputes growing out of the ownership of slaves. Late in the year of 1860 an advertisement appeared in a paper in Nebraska City announcing that the sheriff of Otoe county, under an execution in favor of William B. Hall, and against Charles F. Holley, would, on December 5, sell the following described property, to-wit: "One Negro man and one Negro woman, known as Hercules and Martha." The two negroes were bidden in by the plaintiff, Hall.

These facts would seem to show that there was a "practical form" to the slavery existing in Nebraska.

In the legislature that convened in December, 1860, bills were again introduced for the abolition of slavery in the territory. The opposition to the bill was yet spirited, but less effectual than formerly. One bill passed rapidly through the two houses, was vetoed by the governor on the same ground, substantially, that he had vetoed the former bill. The republicans and Douglas democrats now constituted a majority of each house, and on January 5, 1861, the bill became a law over the governor's veto.

Considering the classes of people by whom Nebraska was settled, it may well be thought that the opening and progress of the war of the rebellion were regarded by them with keen interest. Early in the summer of 1861 several companies of men, for protection against possible Indian defections, were organized in different parts of the territory. In June the nucleus of a regiment was formed, and companies began to be mustered into the service of the United States for the organization of the 1st Nebraska infantry. The regiment was fully completed in July, 22d, by the entrance of the final company. John M. Thayer was commissioned colonel of the regiment. This regiment moved southward July 30th, and joined the movement against Price, under Fremont. They did duty as scouts and vedettes, in the southern part of Missouri, until they were sent with the army for the reduction of Ft. Henry. At Ft. Donaldson, whither they next were sent, they received the baptism of fire in a regular battle, and bore themselves in an admirable spirit. The regiment participated in the battle of Pittsburg Landing, April 7, and did some hard fighting on that noted day. They took part in the advance and capture of Corinth, and then, later in the summer, were sent to Arkansas. Here the regiment was transformed into a cavalry regiment and became the 1st Nebraska cavalry.

The history of the regiment among the mountains of Arkansas presents a series of marches, scouts, small engagements, successes and defeats, and a steady advance into the confidence of the commanding officers for reliability and efficiency. The portion of the regiment that re-enlisted as veterans in 1864, was sent to the western portion of the state, where efficient duty was done in protecting its settlements from invasions of hostile Indians.

In December, 1861, the "Curtis Horse" was organized, comprising four companies from Nebraska, three from Minnesota, two from Missouri and three from Iowa. W. W. Lowe was the colonel. Two days after the capture of Fort Henry, it arrived on the ground, and thereafter did good work, moving in detachments in many directions for the destruction of bridges, railroads or rebel squads. The majority of the men in the regiment were residents of Iowa, and in June, 1862, it was assigned to Iowa as the 5th Iowa cavalry. The regiment did excellent service during the war, in middle and southern Tennessee, as guards, raiders and fighters. Near the close of the year, it assisted in clearing the rebel boats out of the Tennessee river. It participated in July in the famous Rousseau raid, from Tennessee into Alabama, defeating a rebel force on the Coosa river, made famous as the place of passage of troops under Jackson in the Creek war. It bore its share of peril and service in McCook's raid upon Lovejoy Station and Kilpatrick's raid among the railroads of Georgia, and in Gen. J. H. Wilson's raid into central Alabama and Georgia.

On November 28, 1864, the brigade, of which the 5th Iowa constituted a part, was cut off from the army by a detachment of rebels, which they could not evade on account of Duck river in its rear. Col. Capron had reported to General Wilson that the brigade was captured. Finding Col. Capron absent, Major Young, of the 5th Iowa, assumed command and his clear voice rang out in clarion notes: "The 5th Iowa is going straight through; let the brave follow. Forward." In five minutes, the rebel line was reached. The bugle sound, "Charge," and Major Young's voice sounded, "Forward." The rebel line was trampled down and the brigade reported its escape at headquarters. The regiment aided in the dispersion of Hood's army at Franklin. While but a small portion of the regiment consisted of men of Nebraska, its deeds constitute a portion of the history of the state.

The 2d Nebraska cavalry was organized in the fall of 1862, as a protection from the Indians whom rebel emissaries were instigating to deeds of depredation and blood. R. W. Furnas was its colonel. The regiment was not completed until the spring of 1863. In April of that year, it was sent to join the expedition of General Sully, who was operating against the hostile Indians of the upper Missouri river. On the third of September, while a detachment of the army was hunting buffaloes, it came upon a camp of the hostile Indians, in a ravine. Having early notice of the "find," General Sully hurried his troops forward. In his report of the engagement, General Sully says: "I ordered Colonel Furnas," (the 2d Nebraska was on the right wing,) "to push his horses to the utmost, so as to reach the camp and assist Major House in keeping the Indians corralled. This order was obeyed with great alacrity, the regiment going over the plains at

a full run. \* \* I was close upon the rear of the regiment with the 6th Iowa. The 2d Nebraska took to the right of the camp, and was soon lost in a cloud of dust over the hills." After a severe fight of short duration, although it extended into the night, the Indians broke and fled in all directions. General Sully again says: "During the engagement, for some time, the 2d Nebraska, afoot and armed with rifles, (and there are among them probably some of the best shots in the world), were engaged with the enemy at a distance of not over sixty paces, pouring on them a murderous fire in the ravine where they were posted. The slaughter therefore must have been immense." The Indians lost two hundred killed and one hundred and fifty Indians, with all their camp provisions and most of their ponies captured. The Americans lost twenty slain and twenty-eight wounded, of which the 2d Nebraska lost seven killed, fourteen wounded and two missing. The battle was two hundred and twenty miles north-east of Fort Pierre, in South Dakota, and is known as the battle of the White Stone Hills. This defeat cured the Indians of their rebellious disease, and the 2d Nebraska was soon afterwards mustered out of service.

Upon the muster out of the 2d Nebraska cavalry a battalion of veteran cavalry of four companies was formed and assigned for duty in the western portion of the state.

The general government and the department commanders, upon several oceasions, testified, in general orders, their appreciation of the efficiency and ability of the Nebraska soldiers who aided in various ways to preserve the union of states intact, and the legislature of the territory, in 1864, expressed its appreciation, by joint resolution, of the heroism and self-sacrifice, as well as spirit, of the many Nebraska soldiers of that conflict.

Considering the population of the territory and the recentness of its settlement, the number of soldiers which it sent to the war in various directions is remarkable.

In the meantime, settlers continued to come into the territory, although not in such numbers nor with such purposes as formerly. The rebellion drew into its vortex the enterprising men of the east, leaving but few in the northern states prepared to migrate into a new country. On the other hand, many from northern states came west to escape the draft, and the dangers in the border states of Missouri, Kentucky and Tennessee drove out many good Union families, but drove out more who were disloyal but not brave enough to fight for their sentiments. Many violent rebels from Missouri, and some from other southern states, came to Nebraska City, Brownville and other Missouri river towns, and a few went as far west as Salt creek, in Lancaster county. In nearly all these places they were insolent and offensive, so much so that the loyal settlers were constrained to organize in self defense, the effect of which was that the fugitive rebels saw the advantages of less noise.

During the war of the rebellion, the settlers on the frontier, in Kansas and Nebraska, were constantly exposed to Indian depredation and attack. The natural antagonism between the Indian and the white settler was intensified during the war. The leaders of the rebellion saw the advantages to them in fomenting an Indian war on the borders of the north, and their active emissaries were constantly among the Indians, urging them to activity. The government was able, by a menacing force, to check the plans of the rebel leaders in some degree, only.

An Indian attack upon the settlers of Salt creek, along its entire course, was reported in 1862, but the attack was

imaginary, although there were Indians along the creek. Though the reports were unfounded in fact, they served to keep the settlers west of the Missouri in a condition of apprehension, and also restrained the migration of new settlers.

In 1864 an actual inroad was made by the Indians. The reports of the Minnesota massacre had considerably excited the Indians near Nebraska and Kansas, and impelled some of them to the war path. In the summer the Cheyennes attacked a train near Plum Creek (now Lexington) and killed several men. These Indians then crossed the Platte, moved eastward south of Ft. Kearney and passed down the Little Blue. In their journey they passed through the counties of Kearney, Adams, Clay and Thayer, burning property, attacking, killing and mutilating people as far east as Ewbank's ranch on the Little Blue. They also carried away with them two women who were ransomed the following year. Returning, the Chevennes attacked the 7th Iowa cavalry at Pawnee ranch and drove the soldiers into Ft. Kearney. The main body of the Indians then moved southward across the Republican into Kansas, and was subsequently almost annihilated by Colonel Chivington in a night attack.

The first session of the legislature was held at Omaha, January, 16, 1855. In the senate (or council), J. L. Sharp was president, and Dr. George L. Miller, chief clerk. In the house, A. J. Hanscom was speaker and J. W. Paddock, chief clerk. The legislature at once proceeded to business; the capital was located permanently at Omaha, and the local machinery of government provided, and the delegate to congress was instructed to urge the passage of a homestead law for Nebraska. As this was one of the earliest movements in the direction of a

homestead law, it is worthy of note here, that, after the passage of the homestead law by congress, the first entry made under it was in this state,—in Gage county, on Cub creek, four miles west of Beatrice, by Daniel Freeman. The patent is "number 1;" is recorded in volume 1, on page 1, of the homestead records of the land office at Washington. The legislature proceeded to charter banks, insurance companies, colleges, towns, bridge companies, ferries and railroads.

In 1855, another census was taken, which seems to have been more honest than that of 1854. It shows a marked gain in population and wealth. The distribution of population was as follows:

Burt	85	Dodge	139
Dakota	86	Nemaha	604
Douglas	028	Pawnee	142
Otoe1.	188	Washington	207
Richardson	299		
Cass			4,491

The auditor's report shows that the valuation of property in the territory that year was \$617,822.00.

During the territorial condition of Nebraska, it had five governors and two acting-governors as follows:

Francis Burt took the oath of office October 16, and died October 18, 1854. Thomas B. Cuming, the secretary, became acting governor until the arrival of Governor Burt's successor.

Mark W. Izzard assumed the duties of governor, February 20, 1855, and resigned early in the session of the legislature, which convened December 8, 1857. The secretary, Thomas B. Cuming, became acting governor until the arrival of Governor Izzard's successor.

William A. Richardson assumed the duties of governor January 12, 1858, and resigned December 5, of the same year. During the time from his resignation until the arrival

of his successor, the secretary, J. Sterling Morton, acted as governor.

Samuel W. Black arrived May 2, 1859, and at once assumed the office of governor. On the 24 of February, 1861, the governor resigned, and J. Sterling Morton acted in his place until the arrival of his successor.

Alvin Saunders assumed the office of governor, May 15, 1861, and continued in the office until the territory was admitted as a state, March 1, 1867.

During its territorial status, Nebraska was represented in the congress of the United States by the following delegates:

Napoleon P. Giddings,	term	ending	March	4,	1855
Bird B. Chapman,	1.6	66	6 6	66	1857
Fenner Ferguson,	6 6	66	6 6	6 6	1859
Experience Estabrook,	6.6	66	6 6	6 6	1861
Samuel G. Daily,	6.6	6.6	6 6	66	1865
Phineas W. Hitchcock,	6 6	6 6	6 6	1,	1867

## CHAPTER V.—THE STATE OF NEBRASKA.

The people of a territory usually look earnestly toward a state organization long before congress or the people of the states deem them entitled to it. There are disadvantages as well as advantages in a territorial government. The general officers of a territory are appointed by the president, usually with little regard to the wishes or interests of the people of the territory. Nearly all the forms of government are devised by congress with little knowledge or appreciation of the needs or habits of the people, at the same time that congress may veto any act passed by the territorial legislature. As a compensation, in part at least, the general government defrays the ex-

penses of the territorial government. But experience has made it plain to all that people care but little about the amount of their taxes if they may themselves levy them as an act of self-government. It was not the amount of ship-money to which Hampden objected; as it was the fact that the levy was arbitrarily made. It was not the amount of the tax upon tea against which our colonial fathers contended, as it was the parliamentary claim to the right to levy it without the consent of the colonies.

The people of Nebraska were human and they desired to enjoy the exhibarating sensation of self-government. At the beginning of the session of the legislature of 1859, an attempt was made to change from the condition of a territory to that of a state. In the early days of December, a bill was presented to each house authorizing a vote upon the proposition to call a convention for framing a constitution. Congress had not authorized this action, but, as no particular mode of action has been prescribed for such movements, the people had justification for their method of procedure. A bill for the convention and vote became a law January 4, 1860, and a vote was taken March 5. There was serious opposition to the measure, especially by those who cared more for the rate of taxation than for the principle of self-government, and by several other classes whose motives were mostly political. The total population of the territory hardly exceeded twenty-eight thousand, and there was little probability that congress would invest so small a number of people with statehood. The vote cast for the convention was 2,095; against the convention, 2,372; so the attempt was a failure.

During the session of the congress of 1862-3, a bill was presented authorizing Nebraska to take the prelimin-

ary steps toward the assumption of statehood. The session closed before final action was taken.

Later, in 1864, April 19th, an act of congress was passed authorizing the territory of Nebraska to frame a constitution preparatory to admittance into the Union as a state. At that time, the continuance of the war for the Union, and the consequent disturbance of Indian affairs, rendered this permission not desirable. Under the drain of men and money for the suppression of Indian hostilties, and for the support of the Union army in the more extended field of war movements, the people felt too poor in men and money for the increased responsibilities which statehood would impose. But after the return of peace, and the renewal of immigration, and the sequent influx of wealth, the people re-awoke to the consciousness of the value of a state government. Accordingly, February 9, 1866, a convention was anthorized, and a constitution was framed and submitted to the people June 2, 1866, for approval or disapproval. The people, by a vote of 3,938 to 3,838 adopted the state charter. At this election, a member of congress was elected to serve for the residue of the term then ensuing, and T. M. Marquette was elected by 4,821 votes over J. Sterling Morton who had 4,105 votes.

The first election for state officers and for members of the legislature was held June 2, 1866, and the following were elected to the offices indicated:

Governor, David Butler.

Secretary of State, Thomas P. Kennard.

Auditor, John Gillespie.

Treasurer, Augustus Kountze.

Attorney General, Champion S. Chase.

Member of Congress, John Taffe.

The newly adopted constitution provided for a session of the first legislature July 4, 1866. The legislature convened at that date and provided the machinery for a state government and elected the United States senators. In the contest for senatorial honors and distinction the "boys in blue," were successful, and both prizes were awarded to the 1st regiment of Nebraska volunteers. Gen. John M. Thayer, the first colonel, and Rev. Thomas W. Tipton, the chaplain of that regiment, were elected senators.

When congress convened, in December, another bill was presented for the admission of Nebraska, and it was passed in January following. President Johnson promptly vetoed the bill and both houses of congress as promptly passed it over the veto. The constitution of the state, as adopted in 1866, restricted the elective franchise to white persons. As slavery had already been abolished, and as the sentiment of those who had defended the Union against the rebellion was already favorable to an investment of the negro with the elective franchise, this provision was felt to be out of harmony with the new order of things. Accordingly Charles Sumner moved a proviso which was adopted to the effect that the newly organized state should, by its legislature, assent to the fundamental condition that, in the State of Nebraska there should be no denial of the elective franchise or of any other right to any person by reason of race or color, excepting Indians not taxed. A special session of the legislature was held, February 20, 1867, to pass upon the condition imposed by congress. The legislature speedily accepted the condi-The act authorizing the admission of Nebraska provided that in case the state should assent to the condition imposed, the president, upon proper proof to him, should issue his proclamation, announcing that fact and

the due admission of Nebraska to statehood. The proclamation was issued March 1, 1867, on which date Nebraska became a state.

The terms of members of congress expire March 4 in each odd-numbered year. Mr. Marquette had been elected to the house when the constitution was adopted, and at the first election, under the constitution, John Taffe had been elected to the house. Logically then, Mr. Marquette's term would expire in three days after the admission of the state. He presented his credentials and served those three days. The senators-elect did not present their credentials until after March 4, and thus they served two years longer than they would have done had they begun service with Mr. Marquette.

When the territory was formed, Bellevne was the most populous town and aspired to the possession of the territorial capital, but acting-Governor Cuming chose Omaha for that honor, and the first legislative session confirmed that choice. Thereafter, those who asserted that Bellevue had been deprived of the capital by undue influence did not rest from their efforts to remove the capital from Omaha. Several severe and protracted legislative conflicts ensued, but Omaha was able to hold the prize against all comers. By the time that Nebraska assumed statehood, the country south of the Platte had outstripped the country north in population, while the majority of each branch of the legislature had been furnished during all the territorial days by the country north. The first legislature under the state organization made a re-apportionment of members of the legislature in accordance to the distribution of population, and started the movement looking toward a re-location of the state capital. The governor, secretary of state and auditor were selected for commissioners, and were directed to select a suitable site, not less than six hundred and forty acres, within the county of Seward, the south half of either Butler, or Saunders, or the northern portion of Lancaster. The bill did not pass without serious opposition. The commissioners selected the present site of Lincoln, which was named by the bill, in honor of President Abraham Lincoln. The commissioners at once, after the selection of the site, began the sale of lots, and entered into contracts for the erection of the capitol building. The next state legislature held its session in the new building at Lincoln, January, 1869.

During the early years of state history, there was more or less irregularity in the system of keeping accounts, inefficiency in officers and variety in the details of official The result of all which was that officials, through carelessness, inexpertness and unbusiness methods, seemed to be defaulters or embezzlers. Nearly all new states have passed through the same stage of inefficiency and consequent trouble. In the disposition of the school funds, there were irregularities and disregard of forms and conditions prescribed by law, on the part of the governor. As was proper enough, the legislature looked into the matter, and, in February, 1871, the house prepared articles of impeachment against Governor Butler. These articles were sent to the senate, March 1. On the first day of June, following, after a trial continuing nearly six weeks, the governor was declared guilty of unlawfully and corruptly neglecting to discharge his duties in regard to the disposition of some portion of the school fund, and not guilty on all the other charges. By this conviction Governor Butler was deprived of his office, and the secretary of state, William H. James, became acting-governor, and continued so to act until the inauguration of Governor Furnas. It seems to be conceded by most fair-minded men of the state that Governor Butler, who was a man of easy nature, disposed to aid friends, political and personal, derived no personal pecuniary benefit from the lost school funds. The sentiment toward the governor gradually assumed an attitude of sympathy for him, in the financial misfortunes that crowded upon him after his conviction. In 1877, therefore, the legislature ordered the records of the impeachment and trial to be expunged from the journals of the two houses.

As the state increased in wealth and population, the constitution of 1866 was found to be too narrow and restrictive, and, as early as 1871, a strong sentiment developed in favor of a new and broader constitution. Accordingly a convention was voted to be held, and a new constitution was framed. Upon its submission to a vote, it was rejected by a vote of 7,686 to 8,627. But the agitation for a new and better constitution continued. The legislature of 1873, therefore, submitted the question of another constitutional convention. The vote was taken at the regular election in 1874, and, at the session of January, following, the legislature provided for a convention to be held early in the summer. The constitution framed by that body was approved at the October election by 30,202 to 5,474. This is the constitution under which the people of Nebraska now live.

The Indian troubles, known as the "Great Sioux War of 1890-1," has some relation to the history of Nebraska. The drouth and consequent failure of crops were general in the west, and affected the Indians as well as whites in that section. This misfortune, to which was added the failure of the Federal government to supply the rations

promised, produced actual suffering among the Indians in the south-western portion of South Dakota. The long cold winter was at hand and they were in actual need of food. Word was sent out by some of their medicine men that the Great Spirit would send a Messiah to help them Ghost dances were instituted to out of their sufferings. prepare the Indians for the coming of the Messiah. citement and enthusiasm spread from tribe to tribe, even to remote settlements. These ghost dances seem to have frightened the Indian agents and their employes, and exaggerated accounts of the actions and purposes of the Indians were sent to Washington. Troops were sent to the Pine Ridge Agency, in South Dakota, for the protection of the government officers and to serve as a menace to the Indians. In course of time, the troops came into collision with the Indians and a serious conflict seemed to impend.

As the Indian agencies were very near to the border of Nebraska, Governor Thayer, January 2, 1891, directed the Nebraska National Guard to be in readiness to march on short notice to the north-western part of the state for the protection of the people of the state. The two regiments of infantry began to move two days afterwards. The troops of the state were stationed along the northern line of the state in such locations as would serve for the protection of the people and property of Nebraska in case the Indians would move southward in force.

The massacre at the Indian camp on Wounded Knee creek on the 29th of December, was followed by a skirmish on the same creek January 5, between the United States troops and the Indians. In the meantime, conferences were held between the Indian chiefs and General Miles, commanding the United States forces, resulting in

the final surrender of the Indians under a sort of treaty, on the 15th of January. The war was short, but very exciting, and the boys of the Nebraska National Guard did duty as guards and pickets after the manner of veteran soldiers.

The governors of Nebraska, since its admission as a state, and the date of the beginnings of their terms, are as follows:

David Butler, March 1, 1867.

Wm. II. James, June 2, 1871.

Robert W. Firnas, January 13, 1873.

Silas Garber, January 11, 1875.

Albinus Nance, January 9, 1879.

James W. Dawes, January 4, 1883.

John M. Thayer, January 6, 1887.

James E. Boyd, January 10, 1891.

During the the same time the senators and members of the house of representatives have been as follows, with the beginnings of their terms:

Senators-

John M. Thayer, March 4, 1867.

Thomas W. Tipton, March 4, 1867.

Phineas W. Hitchcock, March 4, 1871.

Algernon S. Paddock, March 4, 1875.

Alvin Saunders, March 4, 1877.

Charles H. Van Wyck, March 4, 1881.

Charles F. Manderson, March 4, 1883.

Algernon S. Paddock, March 4, 1887.

Members of house—

T. M. Marquette, March 2, 1867.

John Taffe, March 4, 1867.

Lorenzo Crounse, March 4, 1873.

Frank Welsh, March 4, 1877.

Thomas J. Majors, December 2, 1878.

Edward K. Valentine, March 4, 1879.

Upon the division of the state into three congressional districts, after the United States census of 1880, the following members of the house have been elected.

First District:—

A. J. Weaver, March 4, 1883.

John A. McShane, March 4, 1887.

William J. Connell, March 4, 1889.

William J. Bryan, March 4, 1891.

Second District:—

James Laird, March 4, 1883.

Gilbert L. Laws, December 2, 1889.

William A. McKeighan, March 4, 1891.

Third District:—

Edward K. Valentine, March 4, 1883.

George W. E. Dorsey, March 4, 1885.

Omer M. Kem, March 4, 1891.

The following figures will show the rapidity with which the territory and state have grown. At the various censuses, the returns have shown the population to be as follows:

1854 2,732	1 1876 257,747
1855 4,494	1877 271,561
	1878
1860	
$1870 \dots 122,993$	1880
	1885740,645
1875246,280	1890













